

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

4 IN RE: NATIONAL PRESCRIPTION) No. 17-md-2804
5 OPIATE LITIGATION NO. 2804)
6)
7 APPLIES TO ALL CASES) Hon. Dan A. Polster
8)

9 HIGHLY CONFIDENTIAL
10 SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

11 VIDEO DEPOSITION OF TIFFANY KILPER

12 February 9, 2019
13 9:05 a.m.

14 Reporter: John Arndt, CSR, CCR, RDR, CRR
15 CSR No. 084-004605
16 CCR No. 1186

1 DEPOSITION OF TIFFANY KILPER
produced, sworn, and examined on February 9, 2019, at
2 Bryan Cave Leighton Paisner LLP, 211 North Broadway,
Suite 3600, in the City of St. Louis, State of
3 Missouri, before John Arndt, a Certified Shorthand
Reporter and Certified Court Reporter.

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1 THE VIDEOGRAPHER: We are now on the
2 record. My name is James Arndt. I'm a videographer
3 for Golkow Litigation Services. Today's date is
4 February 9th, 2019, and the time is 9:05 AM.

5 This video deposition is being held in St.
6 Louis, Missouri, in the matter of the National
7 Prescription Opiate Litigation, for the United States
8 District Court for the Northern District of Ohio,
9 Eastern Division. The deponent is Tiffany
10 Rowley-Kilper.

11 Will counsel please identify themselves?

12 MS. GAFFNEY: Alison Gaffney from Keller
13 Rohrbach, for the plaintiffs.

14 MR. KAWAMOTO: Dean Kawamoto, Keller
15 Rohrbach, for the plaintiffs.

16 MS. MEYER: Julie Fix Meyer, Armstrong
17 Teasdale, for Cardinal Health.

18 MS. RANJAN: Brandy Ranjan from Jones Day
19 for Walmart.

20 MS. REN: Feifei Andrea Ren from Ropes &
21 Gray for Mallinckrodt LLC, SpecGX LLC, and Tiffany.

22 MR. DAVISON: William Davison of Ropes &
23 Gray for Mallinckrodt LLC, SpecGX LLC, and the witness.

24 THE VIDEOGRAPHER: Will counsel on the

1 phone please identify themselves?

2 MS. MIKA: Caitlin Mika --

3 MS. HERZFELD: Tricia Herzfeld from
4 Branstetter, Stranch & Jennings for the Tennessee
5 plaintiffs.

6 MS. MIKA: Caitlin Mika, Arnold & Porter,
7 for the Endo and Par entities.

8 MR. BLAKE: Ryan Blake with Reed Smith on
9 behalf of AmerisourceBergen.

10 THE VIDEOGRAPHER: The court reporter is
11 John Arndt, and he will now swear in the witness.

12

13 The witness, TIFFANY KILPER, first having
14 been duly sworn, testified as follows:

15 EXAMINATION

16 BY MS. GAFFNEY:

17 Q. Good morning, Ms. Rowley-Kilper. Could
18 you please state and spell your full name for the
19 record?

20 A. Sure. Tiffany Kilper. T-I-F-F-A-N-Y,
21 K-I-L-P-E-R.

22 Q. Okay, great. And Ms. Kilper, you
23 understand you're under oath today?

24 A. I do.

1 Q. Are you taking any medication or is there
2 any reason that would prevent you from answering every
3 question truthfully today?

4 A. No.

5 Q. Have you ever been deposed before?

6 A. I have not.

7 Q. So just a few ground rules, mostly so we
8 can help the court reporter. We don't want to talk
9 over each other. He'll be recording every word that we
10 say, so for the sake of having a clear record we don't
11 want to speak at the same time. So if you wait for me
12 to finish asking a question before answering, I will
13 wait for you to finish answering before asking another
14 question.

15 A. Okay.

16 Q. And then when you answer a question, you
17 need to answer it verbally rather than uh-huh or
18 nodding, shaking head.

19 A. Okay.

20 Q. If I ask a question that you don't
21 understand, please let me know. I'll try to rephrase
22 it. Okay.

23 Are you represented by counsel today?

24 A. Yes.

1 Q. And who are they?

2 A. Bill Davison and Andrea Ren.

3 Q. Okay. Great. And are you paying them for
4 representing you here today?

5 A. No.

6 Q. And to your knowledge, is Mallinckrodt
7 paying them for representing you here today?

8 A. I would assume so.

9 Q. So the first exhibit is the deposition
10 notice. Here you go. It's been marked as Exhibit 1.

11 [Exhibit Mallinckrodt-Rowley-Kilper-001
12 marked for identification.]

13 Q. Have you seen this before?

14 A. Yes.

15 Q. When did you first see it?

16 A. When I opened it last night.

17 Q. Got it. If you just flip through,
18 Schedule A defines the documents that you need to
19 bring, and then after the definitions -- the documents
20 to be produced, and the last page, Request For
21 Production Number 2, asks for all documents, including
22 electronic data and e-mail, in your possession related
23 in any way to any defendants, manufacturer, marketing,
24 sale, distribution, suspicious order monitoring, and

1 lobbying efforts in connection with its opioid
2 business.

3 Have you searched through your personal
4 documents and provided them to counsel?

5 A. Yes.

6 Q. And were there any documents in your own
7 possession that were responsive?

8 A. No.

9 Q. Okay. Great. When you were at
10 Mallinckrodt, did you use your personal e-mail for
11 Mallinckrodt business ever?

12 A. No.

13 Q. How about text messages? Did you ever
14 text for Mallinckrodt business?

15 A. No.

16 Q. What did you do to prepare for your
17 deposition today?

18 A. I met with my attorneys.

19 Q. How many times?

20 A. Just once.

21 Q. And did you review any documents?

22 A. Yes.

23 Q. What categories of documents did you
24 review?

1 MR. DAVISON: I'm just going to -- you can
2 tell what categories. I don't want you to get into any
3 specific documents that we reviewed. So you can say at
4 a high level, but nothing into any specific documents.

5 A. Okay. We looked at e-mails that were
6 exchanged. We looked at spreadsheets that -- I have
7 some spreadsheet friends my time there. That's all I
8 remember, really.

9 BY MS. GAFFNEY:

10 Q. And other with your -- other than with
11 your attorneys, did you speak to anyone else about your
12 deposition today?

13 A. No.

14 Q. No former colleagues, friends?

15 A. No.

16 Q. Are you related to Jeff Kilper, who was
17 deposed earlier this week?

18 A. Yes.

19 Q. Did you speak to him about your
20 deposition?

21 A. Not about details of it.

22 Q. What did you talk to him about?

23 A. Just that we were -- that it -- when it
24 was happening and the process of being here, yeah.

1 Q. Let's see. Are you being reimbursed at
2 all for your time here today?

3 A. Nope.

4 Q. All right. Thank you for being here.
5 When did you start working at Mallinckrodt?

6 A. I took a temporary job there in 1999 and
7 then I was hired in 2000 as a full-time employee.

8 Q. And what were your responsibilities when
9 you started in 1999?

10 A. It's a test of memory.

11 Q. Yes.

12 A. But I was a temp for a time being a
13 deduction analyst, is what they called it, I believe,
14 and essentially I was matching debits and credits, and
15 it was just a financial position. Low-level financial
16 position.

17 Q. I'll hand you what's been marked as
18 Exhibit 2. And this will help a little bit with the
19 memory test.

20 [Exhibit Mallinckrodt-Rowley-Kilper-002
21 marked for identification.]

22 Q. An early r?sum?, and for the record this
23 is Bates number ending in 8005925. So you mentioned
24 your responsibilities when you first started in a

1 temporary position.

2 Can you walk me through how your
3 responsibilities evolved over your time at
4 Mallinckrodt?

5 A. Sure. So I was hired then -- after doing
6 deductions for a time, I was hired permanently in that
7 position and -- under the finance team, and then I, it
8 looks like in 2001, took a position as a senior
9 contract administrator. Did you want me to go into the
10 roles in --

11 Q. Yeah, so how is that -- a senior contract
12 administrator different from the distributor deduction
13 analyst position?

14 A. Sure. So the contract administrators
15 basically worked on drafting the contracts with our
16 customers. We worked with legal, and we would put the
17 contract together and send it out to the customer, and
18 then we would enter the pricing into the system.

19 So it was a totally different position
20 than the deductions analyst. That was just really an
21 accounting role to match debits and credits and try to
22 analyze the remaining difference if there was one.

23 Q. Got it. Okay. Thank you.

24 A. And then I was promoted to, I believe,

1 lead -- yeah, lead senior contract administrator. Just
2 more of a supervisory role, taking the lead on process
3 improvement, things like that, and then eventually
4 promoted to supervisor in 2004, which just was
5 officially hiring and leading the team that did that.

6 Q. And after that 2004-2005 time period, did
7 you stay in contract administration?

8 A. I did not.

9 Q. Where did you go to after that within
10 Mallinckrodt?

11 A. So they created a role that they called
12 trade compliance, and it was an effort to kind of
13 utilize my background in contracts to help resolve
14 issues with our distributors and work on -- they called
15 DSA, distribution services agreements, and implement
16 some process improvement.

17 It was kind of a catch-all role that had a
18 lot of different functions to it, but that was kind of
19 the trade-compliance piece, and then from there they
20 just promoted the position to what they called trade
21 relations manager, which was just a change in title but
22 essentially the same job, just a little bit higher
23 level, getting to see some of the distributors
24 face-to-face.

1 Just -- yeah, really just an effort to
2 promote me, I think, and make it a higher-level
3 position. That's all.

4 Q. Okay. Great. This is what's been marked
5 Exhibit 3.

6 [Exhibit Mallinckrodt-Rowley-Kilper-003
7 marked for identification.]

8 Q. For the record, this is Bates-numbered
9 ending in 8005956. This is a performance evaluation
10 from October 2002. I have a question about just one
11 part of it.

12 On Page 4, in the box that says expected
13 result, it says become more exposed to the chargeback
14 group and their importance and functions in the
15 department. Can you explain that to me, please?

16 MR. DAVISON: Objection. Form.

17 A. I'm sorry. Which expected result? I see
18 four on this page.

19 BY MS. GAFFNEY:

20 Q. The top one?

21 A. Become more exposed to the chargeback
22 group? Yeah, so it was an effort to sit with the folks
23 that actually processed the chargebacks and kind of
24 understand -- the contracts team entered the pricing,

1 and the chargebacks team processed the chargeback, so
2 it was an effort to kind of understand how those two
3 things correlated together.

4 Q. And how do they correlate together?

5 A. Well, the pricing that I would enter into
6 the system would be the basis for that reimbursement
7 back to the distributor in a chargeback. So if I were
8 to make a mistake on the pricing system, it would cause
9 significant effects in chargebacks being inaccurately
10 paid, so that was kind of an effort for us to do a
11 better job, I think.

12 Q. And then the result here -- during a
13 special project given to the entire contract
14 administration department, Tiffany was responsible for
15 sitting with each member of the chargeback department
16 to better understand that side of the business.

17 So when it says that you were responsible
18 for sitting with each member of the chargeback
19 department -- and I know this is going back to 2002,
20 but do you remember doing that?

21 A. No.

22 Q. Just generally speaking, in terms of how
23 the departments were organized, this refers to the
24 chargeback department and the contract administration

1 department.

2 Were those connected within the same
3 business unit, or were they -- how was it organized at
4 Mallinckrodt?

5 MR. DAVISON: Objection to form.

6 A. At the time I believe that the
7 contracts -- they switched around a lot, but I think
8 during this time the chargeback group was under
9 shared -- what they considered shared service finance,
10 and the contracts were under the business unit.

11 So -- they were in different buildings,
12 too, which made discrepancies difficult to resolve. So
13 that I think this was all an effort to streamline and
14 try to understand what -- when there's discrepancies,
15 how they're caused, and how we can do a better job of
16 understanding how the two functions could come together
17 and help each other a little bit. Makes sense.

18 Q. Okay. Thank you. Here's what's been
19 marked as Exhibit 4.

20 [Exhibit Mallinckrodt-Rowley-Kilper-004
21 marked for identification.]

22 Q. Bates number ending in 8005909, and this
23 appears to be a letter from the HR department stating
24 that you were an employee of Covidien, formerly known

1 as Tyco Health Care, from March 21st, 2001, to February
2 5th, 2011.

3 Do those dates seem accurate to you?

4 A. Yes.

5 Q. And just to clarify for the record,
6 because there are documents that refer to Covidien as
7 well as Mallinckrodt, understanding that legally those
8 are separate entities, but when I refer to Mallinckrodt
9 today, for purposes of today's deposition, can we have
10 an understanding that Covidien and Mallinckrodt are the
11 same?

12 A. Yes.

13 Q. Why did you leave Mallinckrodt in 2011?

14 A. To stay home. We were in the process of
15 adopting, and I wanted to stay home with my son.

16 Q. And are you currently working?

17 A. I am.

18 Q. Where do you work now?

19 A. The Salvation Army.

20 Q. So I have some general questions. What is
21 a chargeback?

22 MR. DAVISON: Objection to form.

23 A. Let's see. A chargeback was -- or is a
24 payment to a distributor to reimburse them for the

1 difference between the wholesaler acquisition cost that
2 they purchased it from the manufacturer at and the
3 distributor's customers price or contract price with
4 their customer.

5 BY MS. GAFFNEY:

6 Q. Is this a practice that's widespread
7 throughout the pharmaceutical industry to your
8 knowledge?

9 MR. DAVISON: Objection --

10 A. To my knowledge, yes.

11 BY MS. GAFFNEY:

12 Q. And to your knowledge, is it applied to
13 both brand-name pharmaceutical products as well as
14 generics?

15 MR. DAVISON: Objection to form.

16 A. I -- my time was only in generics, so I'm
17 not really sure.

18 BY MS. GAFFNEY:

19 Q. And when we talk about chargeback data,
20 what does that data consist of?

21 MR. DAVISON: Objection. Form.

22 A. Chargeback data should consist of the
23 distributor that -- so when you speak of that, are you
24 talking about like Mallinckrodt's chargeback data, what

1 that would contain? Because that's really only --

2 BY MS. GAFFNEY:

3 Q. Right. In your experience working at
4 Mallinckrodt.

5 A. Okay. So I can't say exhaustively. I
6 don't really remember the -- every detail, but I know
7 it would contain at least the distributor or the
8 manufacturer that -- us --and then the distributor that
9 is submitting it, and then the DEA registrant that the
10 product was shipped to from the distributor and their
11 DEA number that's in the product. Obviously, quantity,
12 price. So that's kind of all I remember.

13 Q. And when you say the DEA registrant that
14 the product was shipped to, would that also be referred
15 to as the downstream customer or the indirect customer?

16 A. Yes.

17 Q. Either of those two?

18 A. I've never used the term downstream
19 customer, but yeah, we commonly refer to them as
20 indirect customers, yeah.

21 Q. What's your understanding of how
22 Mallinckrodt uses chargeback data?

23 MR. DAVISON: Objection to form.

24 A. I mean, the chargeback data was used to

1 reimburse the distributor, so that's really -- that was
2 the purpose of a chargeback. I don't -- the data can
3 be used for any number of things to look at your
4 indirect sales.

5 BY MS. GAFFNEY:

6 Q. So with respect to pharmaceutical
7 products, do you know what diversion refers to?

8 MR. DAVISON: Objection to form.

9 A. I have an educated guess.

10 BY MS. GAFFNEY:

11 Q. What is that guess?

12 MR. DAVISON: Objection.

13 A. That diversion would be Mallinckrodt
14 product going somewhere other than -- I mean, than it
15 should, I guess, or than -- yeah, I can't even really
16 say that I can define it.

17 BY MS. GAFFNEY:

18 Q. That's fine. How about the term
19 suspicious order? Are you familiar with that term?

20 A. Yes.

21 Q. What is a suspicious order?

22 MR. DAVISON: Objection to form.

23 A. I can't remember what was determined to be
24 a suspicious order. I know that the compliance team

1 had owned a system for reporting for suspicious orders,
2 but I was only -- I only looked at those for a brief
3 time, so I can't really speak to like what was
4 considered a suspicious order, if that makes sense.

5 BY MS. GAFFNEY:

6 Q. That's fair.

7 A. Okay.

8 Q. How about the term peculiar order? Are
9 you familiar with that term?

10 A. My understanding is that that's the same
11 thing as a suspicious order.

12 Q. And is it your understanding that
13 chargeback data can be used in connection with
14 suspicious order monitoring?

15 MR. DAVISON: Objection to form.

16 A. That it can be, or that it was, or -- I'm
17 not sure I understand the question.

18 BY MS. GAFFNEY:

19 Q. Start with that it can be?

20 A. I wasn't -- I don't remember anything
21 about the indirect sales being considered on the
22 suspicious orders at all. I recall those two things
23 being separate.

24 Q. So in your recollection, did Mallinckrodt

1 ever use chargeback data in connection with suspicious
2 order monitoring?

3 MR. DAVISON: Objection.

4 A. Not that I remember.

5 BY MS. GAFFNEY:

6 Q. Another general question. Are you
7 familiar with the term pill mill?

8 A. I've heard it.

9 Q. What's your understanding of what that
10 means?

11 A. My educated guess would be that it's a
12 pharmacy that is distributing a lot -- prescribing a
13 lot of opioids from that specific location or that
14 specific pharmacy.

15 Q. And in your opinion, is it important for
16 Mallinckrodt to try to prevent its product from going
17 to pill mills?

18 MR. DAVISON: Objection to form.

19 A. I think that's a reasonable
20 responsibility, yeah.

21 BY MS. GAFFNEY:

22 Q. Do you have any understanding of how
23 Mallinckrodt would try to do that if it would try to do
24 that?

1 MR. DAVISON: Objection to form.

2 A. I really have no recollection of the
3 details of how or how they would go about it now.
4 Yeah.

5 BY MS. GAFFNEY:

6 Q. I'm going to hand you what's been marked
7 as Exhibit 5.

8 [Exhibit Mallinckrodt-Rowley-Kilper-005
9 marked for identification.]

10 MS. GAFFNEY: Oh, I'm sorry. Did I
11 miscount, I think?

12 MR. DAVISON: No. This is 5. Correct.

13 MS. GAFFNEY: That's 5? Okay. Okay. For
14 the record, this is Bates-numbered ending in 8001446,
15 and then there's an attachment ending in 800 -- or
16 1451.

17 BY MS. GAFFNEY:

18 Q. So this is an e-mail forward from Sue
19 Werder dated November 6th, 2006, with the subject
20 October monthly report. And I just have a few
21 questions about the attachment, but first, what was Sue
22 Werder's position at Mallinckrodt at the time of this
23 e-mail, if you remember?

24 A. I mean, she was -- well, I'm sorry. What

1 was the date of that e-mail?

2 Q. 2006.

3 A. So she was my boss at the time. I'm not
4 sure what her title was, actually, but she was a
5 director.

6 Q. And if you look at this e-mail, it looks
7 like she has forwarded an e-mail that she first sent to
8 Vince Kaiman at Mallinckrodt. Do you remember what his
9 role was at Mallinckrodt at that time?

10 A. Vince was the -- oh, you're testing my
11 memory today. I think he was the VP of the business, I
12 think.

13 MR. DAVISON: And sorry. Just to be clear
14 on the PowerPoint behind it, I see it jumps a Bates
15 number by five. Is this one of -- are you representing
16 that this is one of the -- I see there's more than one
17 attachment.

18 MS. GAFFNEY: Uh-huh.

19 MR. DAVISON: So are you representing that
20 this is one of the attachments to the e-mail?

21 MS. GAFFNEY: Yes, it's the second
22 attachment.

23 MR. DAVISON: Okay.

24 MS. GAFFNEY: Gross margin initiatives --

1 PowerPoint.

2 MR. DAVISON: Okay. I just wanted to make
3 sure because I saw it jumps.

4 MS. GAFFNEY: Yeah.

5 MR. DAVISON: Thanks.

6 BY MS. GAFFNEY:

7 Q. One more question on this e-mail. She
8 forwards it to a group that includes you. If you can
9 take a minute to look over the other names in that
10 group.

11 Can you tell me if those people were from
12 primarily one department at Mallinckrodt, or from --
13 were they from different departments?

14 A. This is the first one, Number 8.

15 Q. Oh, I'm sorry. Back at the cover e-mail.

16 A. Oh, okay. Lots of different departments.

17 Q. Okay. So now going on the PowerPoint, GM
18 Initiative Number 8. This PowerPoint that -- the title
19 of the file is gross margin initiatives. Can you tell
20 me what gross margin initiatives refers to?

21 MR. DAVISON: Objection to form.

22 A. I'm assuming -- I really can't speak to
23 what she meant by that. Just -- yeah, I really have no
24 idea.

1 BY MS. GAFFNEY:

2 Q. Okay. And then this -- on the Number 8
3 page, the initiative is reduce financial risks
4 associated with gray market activity. What does gray
5 market activity refer to?

6 MR. DAVISON: Objection to form.

7 A. My recollection is that that's the
8 diversion that you're talking about, that the product
9 was showing up in places that we -- that it wasn't
10 supposed to.

11 BY MS. GAFFNEY:

12 Q. And then next to that under description,
13 it says refine business process and controls relating
14 to chargebacks. How does that description relate to
15 the initiative of reducing financial risks associated
16 with gray market activity?

17 MR. DAVISON: Objection to form.

18 A. Honestly, I have no idea what this slide
19 was referring to. It's just been so long. I am not --
20 I don't remember any specific business process or
21 controls that I was a part of that was associated with
22 gray market activity, so I'm not really sure what the
23 details of this slide are.

24 BY MS. GAFFNEY:

1 Q. Okay. That's fair. I know it has been a
2 long time. And according to this slide, you were the
3 business lead for this subcommittee. Is that correct?

4 MR. DAVISON: Objection to form.

5 A. That's what it appears. It appears that
6 way.

7 BY MS. GAFFNEY:

8 Q. If you read through the objective and the
9 tactical plan items listed on this slide, does that
10 refresh your recollection of what this project
11 involved?

12 A. I have some recollection of the
13 overreporting analysis vaguely, that we looked at the
14 outbound sales versus the inbound sales in an effort to
15 try to determine if we thought the reporting was
16 accurate from a big picture percentage-wise, if that
17 makes sense.

18 But beyond that, I really can't -- they
19 were all efforts to attempt to do the best job we could
20 to monitor the indirect activity to see if -- to make
21 sure that our product was getting where it needed to go
22 and not diverted, so --

23 Q. On the third box under tactical plan, it
24 says completion of customer segmentation project to

1 ensure 100 percent validation of legitimate end
2 customers for chargeback processing.

3 Were there customers in Mallinckrodt's
4 supply chain that were not legitimate end customers, to
5 your knowledge?

6 MR. DAVISON: Objection to form.

7 A. I'm sorry. Can you repeat the question?

8 BY MS. GAFFNEY:

9 Q. Sure. Were there customers in
10 Mallinckrodt's supply chain that were not legitimate
11 end customers to your knowledge?

12 MR. DAVISON: Objection to form.

13 A. I think that the term legitimate -- that
14 had to do with a segmentation project that ensured that
15 our system would automatically kick out any chargeback
16 that was, let's say, a distributor selling to a
17 distributor. If they had that segmentation,
18 distributor would automatically kick out.

19 So it wasn't -- I don't know of any
20 illegitimate end customers. This was just really an
21 effort to try to have the system do some of the grunt
22 work for making sure that these chargebacks were denied
23 if they were sold to a segmentation that shouldn't be
24 receiving a chargeback.

1 BY MS. GAFFNEY:

2 Q. That makes sense. Thank you. You
3 mentioned the segmentation of
4 distributor-to-distributor sales?

5 A. Right.

6 Q. So that type of transaction would not
7 receive a chargeback?

8 A. Right.

9 Q. And why is that?

10 A. I mean, it's just because then you have
11 no -- I mean, my understanding is that would have been
12 because then you can't account for where the product is
13 going. I don't know.

14 I mean, the wholesaler that bought it from
15 us should want their reimbursement, and that's what the
16 chargeback is to get them to, and so for them to take
17 the product and sell it to another distributor, we
18 would lose sight of that, and so that was something
19 that we ensured that that business process didn't
20 happen, if that makes sense.

21 Q. Uh-huh. Okay. And you said the system
22 would automatically kick out those types of
23 transactions; is that correct?

24 A. Correct. Yeah.

1 Q. Were there other segmentations that the
2 chargeback system would also exclude?

3 A. Yes.

4 MR. DAVISON: Objection to form.

5 A. I have no idea which ones.

6 BY MS. GAFFNEY:

7 Q. This is what's been marked as Exhibit 6,
8 and Bates number 7127583.

9 [Exhibit Mallinckrodt-Rowley-Kilper-006
10 marked for identification.]

11 Q. Exhibit 6 is from a PowerPoint
12 presentation. The title of this presentation is sales
13 and marketing operations, new hire orientation. It was
14 quite a long PowerPoint deck, so I didn't print the
15 whole thing. Just one section of it on chargebacks and
16 tracings.

17 Are you familiar with the term tracing?

18 MR. DAVISON: Objection.

19 A. Vaguely.

20 BY MS. GAFFNEY:

21 Q. Can you tell me what you recall what that
22 means in the context of your work at Mallinckrodt?

23 MR. DAVISON: Objection.

24 A. I could not be accurate here, but my

1 recollection is that maybe a tracing was a transaction
2 indicating where the product was sold even when there
3 wasn't a chargeback to be paid, but that could be
4 wrong. That's my recollection of it.

5 BY MS. GAFFNEY:

6 Q. Okay. And this looks like an organization
7 chart for the chargeback department, and you're not in
8 here; correct?

9 A. Right.

10 Q. So as you were explaining before, the
11 chargeback department was separate from your contract
12 administration department; correct?

13 A. Correct.

14 Q. Were both of those departments within the
15 sales and marketing operations diversion?

16 MR. DAVISON: Objection.

17 A. They for a time were both under sales
18 marketing ops, and then -- during my 11 years there
19 they changed back and forth quite a bit. The
20 chargebacks teams was always under the shared service
21 organization -- or sales marketing ops, I guess --
22 operations -- but the contracts team went back and
23 forth.

24 BY MS. GAFFNEY:

1 Q. So just going through these slides,
2 there's one called chargebacks and tracings interaction
3 chart. So under distributors, there's three --

4 MR. DAVISON: Give her a second to review
5 the chart.

6 MS. GAFFNEY: Oh, sorry.

7 MR. DAVISON: It's a big chart, so --

8 MS. GAFFNEY: Yeah. Please take your
9 time.

10 A. Okay.

11 BY MS. GAFFNEY:

12 Q. Okay. So under distributors in the third
13 bullet point, it says communicate discrepancies between
14 what the distributor reported and what is in Partner.

15 Do you remember what Partner refers to
16 here?

17 A. The pricing system.

18 Q. And does that mean that it's a database?
19 What does it mean -- the pricing system?

20 A. It was just our software platform that we
21 entered pricing into, so it was what the chargeback was
22 processed in -- the system that it was processed in.

23 Q. And then how about under information
24 services it says EDI 844, 849, and 867. Can you

1 explain what that refers to?

2 A. I know that they're the transactions from
3 the wholesaler, and I know one of them's inventory but
4 I can't remember -- I cannot remember the specifics on
5 each of these transactions. No, I'm sorry.

6 Q. No problem. And it says partner support
7 there as well. Do you know what that would refer to?

8 A. I think that this slide's indicating that
9 our IT group was -- they were the ones that handled
10 those EDI transactions coming into our system and they
11 provided support for when we'd have -- if we
12 encountered an issue with our pricing system.

13 Q. Got it. And CDIG. I think I saw in
14 another document that that's the customer data
15 integrity group. Correct?

16 A. That's correct.

17 Q. It says set up new indirect customers.
18 Would Mallinckrodt set up an account for its indirect
19 customers?

20 MR. DAVISON: Objection.

21 A. My understanding is that for the
22 chargeback to pay, we would have needed to have that
23 DEA number to ensure that it's a legitimate DEA
24 registrant so that we could pay that transaction. So

1 that's -- that would be my understanding of that.

2 BY MS. GAFFNEY:

3 Q. Okay. And CDIG would be the group that
4 would enter that information into the system?

5 A. Correct.

6 Q. And do you know which system the indirect
7 customer information is entered into? Would that have
8 been Partner as well?

9 MR. DAVISON: Objection to form.

10 A. I'm not sure. I never had responsibility
11 for that, so I'm not sure where she set -- where CDIG
12 set those up at.

13

14 BY MS. GAFFNEY:

15 Q. I'm sorry. I've got one more question
16 about the slideshow.

17 A. Oh.

18 Q. There's a slide -- I know they're not
19 numbered, but it says chargebacks and tracing services.
20 Got it?

21 A. Okay. Got it.

22 Q. So under distributor reporting
23 administrators process chargebacks, it says ensure the
24 data is accurate by validating with help of Partner,

1 and it lists unit of measure, item codes, pricing,
2 customer names, addresses, and DEA numbers.

3 Does this refer to what we were talking
4 about earlier as chargeback data?

5 MR. DAVISON: Objection to form.

6 A. That would be my understanding.

7 THE VIDEOGRAPHER: Ms. Gaffney, I've been
8 getting some rustling from your hair.

9 [Discussion off the record.]

10 BY MS. GAFFNEY:

11 Q. So the chargeback data is contained in
12 Partner?

13 MR. DAVISON: Objection to form.

14 A. As far as the chargeback data being
15 contained, my understanding was that the chargeback was
16 processed in Partner, so I'm not an IT expert at all,
17 so I don't know exactly where it was like housed or
18 stored or any of that, but I think Partner system is
19 where the pricing was, so I know that Partner was at
20 least utilized in processing of the chargebacks, if
21 that makes sense.

22 BY MS. GAFFNEY:

23 Q. That does make sense.

24 A. Okay.

1 Q. And I'm not an IT person either --

2 A. Okay.

3 Q. -- so I'm going to be asking lots of
4 questions trying to figure out the database without
5 really knowing the right terminology. So let me ask it
6 this way. I've seen in the documents -- and let me
7 know if this is accurate -- that you would at times run
8 chargeback reports; is that correct?

9 MR. DAVISON: Objection to form.

10 A. Yeah. Yes.

11 BY MS. GAFFNEY:

12 Q. When you would run a chargeback report,
13 would you run it through Partner?

14 A. No. Yeah. There was a tool called Cognos
15 that, again, I don't really understand it, but it was
16 what our system or what our company used to sort of --
17 I know that it like rolled up the data so you could
18 look at it at a level and you could -- it was like a
19 program or a report-writer type of functionality.

20 Q. So if I understand correctly, Cognos would
21 be able to import the pricing data from Partner?

22 MR. DAVISON: Objection to form.

23 BY MS. GAFFNEY:

24 Q. Is that correct?

1 A. Somehow -- I don't know if it was
2 imported, but yeah, somehow it did get our indirect
3 sales so you could run reports out of Cognos to get at
4 that information. So yeah, anytime I were to run like
5 a chargeback report or anything about chargebacks,
6 that's the system that I had to use.

7 Q. All right. All done with that. Thank
8 you.

9 A. Okay.

10 Q. Okay. What's been marked as Exhibit 7 has
11 a PowerPoint Bates number ending in 1009775.

12 [Exhibit Mallinckrodt-Rowley-Kilper-007
13 marked for identification.]

14 Q. I'll give you a moment to flip through
15 this slideshow. There's some overlap with what we were
16 just looking at.

17 A. Okay.

18 Q. And then a few slides that are different
19 that I wanted to ask about.

20 A. Are there specific slides you want me to
21 read? You want me to read this entire thing?

22 Q. Yeah. No, you don't need to read the
23 entire thing.

24 A. Okay.

1 Q. There are some slides that appear to be
2 screenshots from a database. So the first one, I
3 think, is setting up customer cross-ref in Partner.
4 And then from there a few slides later is one that says
5 chargeback transaction in Partner.

6 A. Okay.

7 Q. Okay. So just to try to understand how
8 the databases worked -- this is -- is this what the --
9 essentially what the screen looked like when you worked
10 in Partner?

11 MR. DAVISON: Objection to form.

12 A. It looked familiar with, but yeah, I have
13 no recollection of the details of it, but --

14 BY MS. GAFFNEY:

15 Q. And you used Partner to enter the pricing
16 data. Let me back up. Strike that. Can you just walk
17 me through how you would use the Partner system?

18 MR. DAVISON: Objection.

19 A. So in my roles I would enter the pricing
20 and so I would never have seen this screen ever --
21 yeah -- except for that time I must have sat with the
22 chargeback analyst. This would have been their
23 screen -- something that they would have seen, but not
24 me.

1 I'm sure some of the prices on here came
2 from the screens that I entered. I can't even tell you
3 exactly which prices are the ones that I entered
4 because there's so many -- all the prices are on here
5 so they've got the wholesaler acquisition cost.

6 There's just -- I'm not even sure what --
7 because I've never used this screen so I'm not even
8 sure which are the pricers that are the contract prices
9 that I entered.

10 BY MS. GAFFNEY:

11 Q. Okay. So Partner was the pricing system;
12 is that correct?

13 A. Correct.

14 Q. Was there an additional customer database
15 that Mallinckrodt used?

16 MR. DAVISON: Objection to form.

17 A. I don't remember in the customers were
18 housed in Partner or -- no, no. I do remember -- I'm
19 sorry. I do remember that. The customers -- I think
20 the customer information was housed in what they call
21 J.D. Edwards system, and there was interaction
22 obviously between the two, but I couldn't tell you the
23 details of that either.

24 BY MS. GAFFNEY:

1 Q. And which department would primarily work
2 with the J.D. Edwards system?

3 MR. DAVISON: Objection.

4 A. My recollection of the J.D. Edwards was
5 that it was -- all of the outbound sales to the
6 wholesalers were JDE transactions. That's what I
7 remember. Partner -- I don't know that -- I don't
8 remember if direct sales got put in Partner at all. I
9 don't think they did.

10 I think it was -- Partner was sort of the
11 pricing system for the indirect piece of the business,
12 so I think J.D. Edwards was their -- the director --
13 outbound sales to the wholesalers.

14 BY MS. GAFFNEY:

15 Q. And then Cognos was not so much of a
16 database but rather a report-generating tool; is that
17 correct?

18 A. That's what -- that was my understanding
19 of it. That's the way that I used it.

20 Q. Okay. Okay. So just in terms of the way
21 that you used these systems -- I'll give you an
22 example. If you were sent an article saying that a
23 pharmacy had been raided by the DEA and asked to find
24 out how much Mallinckrodt product went to that

1 pharmacy, how would you go about doing that?

2 MR. DAVISON: Objection to form.

3 A. I couldn't -- I really don't remember
4 exactly how I would or if I would have been able to do
5 that. We only had the transactions that we had gotten
6 in chargebacks, so you could look at indirect sales to
7 a pharmacy but it may not have been -- it's not going
8 to be the entirety of the product that may be there
9 because there was also noncontract sales, so we only
10 had what the distributor submitted to us in the
11 chargeback.

12 BY MS. GAFFNEY:

13 Q. Okay. And understanding that that is all
14 the data that you had access to, if you wanted to
15 generate a report of that data, how would you do that?

16 MR. DAVISON: Objection to form.

17 A. I don't remember the details. I mean, I
18 know that I could run a report and look at a specific
19 end pharmacy and look at chargebacks that had come in
20 for that pharmacy. I know that I could do that, but I
21 can't really recall. I think it was from Cognos. My
22 only recollection was doing reports from Cognos. I
23 don't know if that answers your question or --

24 BY MS. GAFFNEY:

1 Q. It does.

2 A. Okay.

3 Q. Thank you. Are you aware of how
4 Mallinckrodt kept track of suspicious or peculiar
5 orders?

6 MR. DAVISON: Objection to form.

7 A. I'm aware that there was a process in
8 place. I couldn't tell you the details of that
9 process.

10 BY MS. GAFFNEY:

11 Q. Just another example. If you were asked
12 to create a report showing all of the pharmacies for
13 which one distributor had requested chargeback
14 payments, how would you go about doing that?

15 MR. DAVISON: Objection to form.

16 A. One pharmacy?

17 BY MS. GAFFNEY:

18 Q. One distributor -- all of its pharmacy
19 customers for which it had requested chargeback
20 payments?

21 MR. DAVISON: Same -- sorry. Same
22 objection.

23 A. Yeah, I mean, the same -- I mean, I would
24 have used Cognos to look at, yeah, the end user. It

1 would -- my recollection is that the data getting down
2 to the distributor's customer was massive, but -- so we
3 didn't really look at it that way because there was
4 hundreds of thousands of transactions and -- but we
5 could -- I would use Cognos to look at any of the data
6 that I was asked to look at.

7 BY MS. GAFFNEY:

8 Q. When you say the data getting down to the
9 distributor's customer was massive, what do you mean by
10 massive?

11 A. Well, just like a chargeback could be so
12 small, and so if you -- the chargeback might be a
13 couple dollars, and so you've got a lot of data, right,
14 to -- when you're down to that level in the sort of --
15 just the -- that's just all I meant. This was just a
16 lot of transactions that go into one distributor.

17 Q. Understanding that there's a lot of data
18 there, would you still be able to use those programs to
19 generate a report showing all of the indirect customer
20 transactions for which a certain distributor had
21 requested chargeback payments?

22 MR. DAVISON: Objection to form.

23 A. The -- yeah, the data was there and you
24 could run reports to get it.

1 BY MS. GAFFNEY:

2 Q. Okay. Here's what's been marked as
3 Exhibit 8.

4 [Exhibit Mallinckrodt-Rowley-Kilper-008
5 marked for identification.]

6 Q. For the record, the Bates number ends in
7 457681. It is an e-mail dated February 6th, 2008, to
8 you from Victor Borelli with an attachment.

9 Do you remember working with Victor
10 Borelli?

11 A. I do.

12 Q. And it appears that he is forwarding you
13 an e-mail from Chrissy Madden of Master's
14 Pharmaceuticals that attaches a letter from Master's
15 and a due diligence report regarding Sunrise Wholesale.
16 I'll give you a minute to -- oh, wait. I didn't give
17 you an attachment. Hold on.

18 [Discussion off the record.]

19 MS. GAFFNEY: Okay. Can we go off the
20 record for a second?

21 THE VIDEOGRAPHER: We are going off the
22 record at 9:58 AM.

23 [A brief recess was taken.]

24 THE VIDEOGRAPHER: We are back at 10:12

1 AM.

2 BY MS. GAFFNEY:

3 Q. Okay, Ms. Kilper. Welcome back from the
4 break. We've fixed the exhibit issue. So now you have
5 what's been marked Exhibit 9, which is the same e-mail
6 we were just talking about but this time with the
7 attachment. So I'll give you a moment just to look at
8 the attachment.

9 [Exhibit Mallinckrodt-Rowley-Kilper-009
10 marked for identification.]

11 Q. Okay. And you said before the break that
12 you did recall working with Mr. Borelli. He was a
13 national account manager; correct?

14 A. Correct.

15 Q. How would you interact with him in your
16 role in the contract administration department?

17 A. So we supported the national account
18 managers when they would need contracts drafted for
19 their customers, so we just -- they would submit what
20 they needed a like proposal for, and we would draft it
21 up and send it out, so that's how I supported him.

22 Q. Looking over this e-mail and the
23 attachment, do you remember why Victor Borelli would
24 have been sending you the due diligence report that

1 Master's did with respect to Sunrise?

2 MR. DAVISON: Objection to form.

3 A. I really -- I don't recall ever seeing
4 this, and I trust that it did come to me because I
5 could see that, but I don't remember seeing this at
6 all, so I have no idea why he sent it to me, actually.

7 BY MS. GAFFNEY:

8 Q. So this is in February 2008, and he says
9 here's the due diligence report that Master's did a few
10 months ago. Let's talk when you get a chance. I just
11 left you a voicemail on this. You don't remember --
12 well, you just said you don't remember receiving this.
13 You don't remember discussing this with Mr. Borelli
14 either?

15 A. No.

16 Q. Would you -- would the national account
17 managers typically send you due diligence reports on
18 indirect customers in your interactions with them?

19 A. No.

20 Q. Can you think of any reason that this
21 related to your work at this time in 2008?

22 MR. DAVISON: Objection to form.

23 A. I really can't think of any reason why he
24 would have sent this to me, no.

1 BY MS. GAFFNEY:

2 Q. Ms. Kilper, were you ever involved in
3 suspicious order monitoring efforts at Mallinckrodt?

4 A. Yes, for like a three-month period, I
5 believe.

6 Q. Okay. So a three-month period.
7 Approximately when did that start?

8 A. I'm not sure of the exact date. Actually,
9 it was a few months before I resigned.

10 Q. So it would have been end of 2010,
11 beginning of 2011?

12 A. I think so.

13 Q. And what was your role at Mallinckrodt at
14 that time right before you resigned from the company?

15 A. I was in the role of trade relations,
16 but -- is that what you're asking?

17 Q. Uh-huh.

18 A. What role was I in?

19 Q. Uh-huh.

20 A. Yeah, I was the trade relations manager at
21 the time.

22 Q. And how were you involved in suspicious
23 order monitoring for those few months in your role as
24 trade relations manager?

1 A. I remember that Jim Rausch transitioned
2 the report to me that was suspicious order monitoring,
3 and I remember being trained to look over that report
4 and -- but beyond that, I can't really remember the
5 details of what I did. It was such a short time.

6 Q. Do you know who took your place after you
7 left Mallinckrodt in 2011?

8 MR. DAVISON: Objection to form.

9 A. I know they didn't replace my role in the
10 same capacity, so they restructured, and so no, I don't
11 know.

12 THE VIDEOGRAPHER: Ms. Gaffney, I've got
13 some noise --

14 MS. GAFFNEY: Sorry.

15 THE VIDEOGRAPHER: That's okay.

16 BY MS. GAFFNEY:

17 Q. You said you remember that Jim Rausch
18 transitioned the peculiar order or suspicious order
19 report to you just a few months before you left. Do
20 you remember why Mallinckrodt -- or Jim Rausch
21 transitioned that report to you?

22 MR. DAVISON: Objection to form.

23 A. I don't know why they chose me, no.

24 BY MS. GAFFNEY:

1 Q. I want to go back to something you were
2 saying earlier. You said that a sales tracing, to the
3 best of your recollection, is a transaction indicating
4 where the product was sold even when there wasn't a
5 chargeback to be paid; is that correct?

6 MR. DAVISON: Objection to form.

7 A. Since it was a guess, I probably misspoke.
8 I really can't be sure what it was. So --

9 BY MS. GAFFNEY:

10 Q. Okay. But to the best of your
11 recollection here today, a tracing would provide a way
12 to identify an indirect customer even in the absence of
13 a chargeback payment request?

14 MR. DAVISON: Objection to form.

15 A. Since I'm not 100 percent sure that that's
16 what a tracing is, I feel like I should just say I'm
17 not sure.

18 BY MS. GAFFNEY:

19 Q. That's fine.

20 A. Yeah.

21 Q. Do you know who at Mallinckrodt would have
22 been responsible for sales tracings?

23 MR. DAVISON: Objection to form.

24 A. I have no idea.

1 BY MS. GAFFNEY:

2 Q. Do you know which department or group that
3 would have fallen under?

4 MR. DAVISON: Objection.

5 A. No.

6 BY MS. GAFFNEY:

7 Q. Were you involved in consideration of a
8 pilot project by an entity called IntegriChain?

9 A. I don't remember anything regarding that,
10 no.

11 Q. Let me give you a couple documents that
12 may help refresh your recollection on that. So this is
13 what's been marked Exhibit 10.

14 [Exhibit Mallinckrodt-Rowley-Kilper-010
15 marked for identification.]

16 Q. And for the record, it's Bates number
17 ending in 387970, and this is an e-mail from Kimberly
18 France to Karen Harper dated April 9th, 2008, and I've
19 just included one of the attachments, which is
20 IntegriChain project history. Your name starts to show
21 up in the column of meeting invitees in December of
22 2007.

23 Does this document refresh your
24 recollection of IntegriChain at all?

1 A. Not really. I remember sitting in a
2 meeting. That's about -- that's the extent of what I
3 remember about IntegriChain.

4 BY MS. GAFFNEY:

5 Q. Do you remember who Kimberly France was in
6 terms of what her role was at Mallinckrodt?

7 A. I don't remember her role, no.

8 Q. How about Karen Harper?

9 A. Yeah, Karen Harper. Yeah.

10 Q. What was her role at Mallinckrodt?

11 A. I know she -- she's who I would go to on
12 the compliance side of things.

13 Q. And when you say you would go -- who you
14 would go to on the compliance side of things, what sort
15 of interactions would you have with the compliance side
16 of things?

17 A. Limited interaction, but when Jim Rausch
18 transitioned that report I remember interacting with
19 Karen, but I can't really remember any detail about it.
20 But that was my only interaction with Karen.

21 Q. So to your recollection, your primary
22 interactions with the compliance department were
23 surrounding the peculiar order report after Jim Rausch
24 transitioned it to you?

1 MR. DAVISON: Objection to form.

2 A. That's what I remember, yeah.

3 BY MS. GAFFNEY:

4 Q. And what was Jim Rausch's role at
5 Mallinckrodt?

6 A. I know he was in customer service. I
7 don't know if he was manager or director or -- but
8 he -- I just know he was in customer service.

9 Q. To your knowledge, after you left
10 Mallinckrodt, did Mallinckrodt continue to generate
11 those peculiar order reports?

12 A. I have no --

13 MR. DAVISON: Objection to form.

14 A. Got no idea.

15 BY MS. GAFFNEY:

16 Q. You mentioned that they restructured after
17 you left. Do you know how they restructured?

18 MR. DAVISON: Object --

19 A. No, I don't know.

20 BY MS. GAFFNEY:

21 Q. This has been marked as Exhibit 11.

22 [Exhibit Mallinckrodt-Rowley-Kilper-011
23 marked for identification.]

24 Q. It's also about IntegriChain. It's an

1 e-mail with an attached PowerPoint, so I'll give you a
2 moment to flip through it. And for the record, the
3 Bates number on this Exhibit 11 ends in 274486.

4 A. You want me to look through it all?

5 Q. No, I don't think you need to look through
6 it all. I can ask you just a few targeted questions
7 about it. So the slideshow appears to be a
8 presentation prepared by IntegriChain. Is that fair to
9 say?

10 MR. DAVISON: Objection to form.

11 A. That's what it looks like.

12 BY MS. GAFFNEY:

13 Q. That's what it looks like? It's very hard
14 to read the title of this slideshow from how it
15 printed, but it is titled IntegriChain-Covidien proof
16 of concept channel integrity reporting, Phase 1.

17 And I'm just going back to the cover to
18 place this in time. The subject of this e-mail is July
19 15th IntegriChain meeting, and it's from July 15th,
20 2008. You said you remembered sitting in a meeting.

21 Do you think it might have been this July
22 15th meeting?

23 MR. DAVISON: Objection.

24 A. I have no recollection.

1 BY MS. GAFFNEY:

2 Q. And going back to the previous exhibit,
3 the IntegriChain project history, it looked like there
4 were multiple meetings starting in -- excuse me --
5 starting in 2007 and going into 2008.

6 Does that seem accurate according to your
7 recollection?

8 MR. DAVISON: Objection to form.

9 A. That's what it looks like in the document.

10 BY MS. GAFFNEY:

11 Q. Okay. Okay, so going through the slides
12 in the -- from the IntegriChain July 15th meeting, in
13 the background it says Covidien has engaged
14 IntegriChain in a proof-of-concept program that
15 leverages Covidien's channel data to proactively
16 monitor channel integrity.

17 What's your understanding of what that
18 means?

19 MR. DAVISON: Objection to form.

20 A. I really have no idea. Sorry.

21 BY MS. GAFFNEY:

22 Q. That's fine. Is it your understanding
23 that when IntegriChain is proposing to leverage
24 Covidien's channel data, it means it's proposing to use

1 Mallinckrodt's own data?

2 MR. DAVISON: Objection to form.

3 A. I'm not sure.

4 BY MS. GAFFNEY:

5 Q. So just -- you can go ahead and skip past
6 the slides that are the retail inventory analysis
7 slides to the slide titled wholesale inventory analysis
8 overview. And here it reads most wholesalers have
9 committed to exclusively source pharmaceuticals
10 directly from the manufacturer and to maintain
11 inventory levels within prespecified parameters.

12 Is that statement consistent with your
13 experience dealing with wholesale customers?

14 MR. DAVISON: Objection to form.

15 A. I really can't speak to whether or not
16 it's accurate or not. I mean, it's just not my slide
17 deck and I don't really know what it means.

18 BY MS. GAFFNEY:

19 Q. Sure.

20 A. Sorry.

21 Q. Okay. You can go -- let's see -- past the
22 wholesale inventory analysis to the slide titled orders
23 from high-risk channels. Here it reads wholesaler
24 sales to certain channels pose a higher risk of product

1 diversion than others and lists two examples, sales to
2 internet pharmacies and distributor sales to other
3 wholesalers.

4 Do you agree that those categories of
5 sales pose a higher risk of product diversion?

6 MR. DAVISON: Objection to form.

7 A. I really don't know enough to say. This
8 isn't my area of expertise at all, so --

9 BY MS. GAFFNEY:

10 Q. And earlier we talked about how the
11 chargeback system will not process chargebacks for
12 wholesaler-to-wholesaler transactions. You mentioned
13 that with wholesaler-to-wholesaler transactions, it's
14 difficult for Mallinckrodt to know where that product
15 goes eventually; is that accurate?

16 MR. DAVISON: Objection to form.

17 A. Yeah, that's, I think, a true statement.
18 Yeah. I mean, I really only dealt with the data of
19 those transactions, so to speak at a high level of
20 whether or not it's a higher risk of product diversion,
21 I just can't really speak to that.

22 Our system had a way to identify those
23 distributors-to-distributor sales and deny them, is
24 what I was referring to, I guess.

1 BY MS. GAFFNEY:

2 Q. Understood. Okay. So if you keep going
3 through the slide deck, it looks like IntegriChain
4 included examples of mail-order pharmacies, internet
5 pharmacies, examples of wholesaler-to-wholesaler
6 purchases, and then examples of wholesalers with
7 counterfeiting/diversion ties purchasing Covidien
8 products.

9 To your knowledge, did Mallinckrodt do
10 anything with the information flagged by IntegriChain
11 in this presentation?

12 MR. DAVISON: Objection to form.

13 A. I don't know.

14 BY MS. GAFFNEY:

15 Q. Okay. If you can keep flipping through to
16 the slide titled order diversion risk analysis. It has
17 oxycodone customers with the largest relative growth,
18 so it appears that IntegriChain analyzed relative
19 growth, and then the text back here -- box here
20 explains that most of these were new customers with
21 minimal orders in the first three months of the
22 analysis.

23 But if you flip to the next slide, there
24 are a few examples of oxycodone customers with

1 established order history and high growth. Do you see
2 that?

3 MR. DAVISON: Objection to form.

4 BY MS. GAFFNEY:

5 Q. Oops. There you go.

6 A. Okay.

7 Q. And the text box reads a smaller number of
8 facilities flagged for high relative growth did not
9 appear to be new customers and still demonstrated
10 significant order growth. So if you can take a look at
11 the graph that's included here, there's a line for the
12 three pharmacy examples -- for each of the three
13 pharmacy examples.

14 What's your interpretation of this graph
15 as you look at it today?

16 MR. DAVISON: Objection. Form.

17 A. I really can't comment on it because I
18 don't remember this presentation. I don't remember
19 this data at all, so I don't feel like I can speak to
20 it.

21 BY MS. GAFFNEY:

22 Q. How about just looking at the graph?
23 What's your understanding of the information that's
24 represented there?

1 MR. DAVISON: Objection to form.

2 A. I mean, I can tell that there's sales data
3 for this pharmacy -- for these three different
4 pharmacies, and they're trying to convey something, but
5 I really can't speak to it. I just have no idea.

6 BY MS. GAFFNEY:

7 Q. Would you agree that this graph shows a
8 significant increase in oxycodone sales by Gompers
9 Pharmacy in a one-month time period?

10 MR. DAVISON: Objection to form.

11 A. That's what it looks like it's conveying,
12 yeah.

13 BY MS. GAFFNEY:

14 Q. Gompers Pharmacy is in West Virginia.
15 I'll represent to you that it is in Wheeling, West
16 Virginia, which borders Ohio. It's right on the Ohio
17 River in Appalachia.

18 Is it your understanding that there is an
19 opioid crisis in this country?

20 MR. DAVISON: Objection to form.

21 A. I'm aware of that, yeah.

22 BY MS. GAFFNEY:

23 Q. How did you become aware of that?

24 A. Just the media.

1 Q. Is it your understanding that the opioid
2 crisis has particularly affected Appalachia and West
3 Virginia?

4 MR. DAVISON: Objection.

5 A. I didn't know that, no.

6 BY MS. GAFFNEY:

7 Q. This slideshow is from 2008. If someone
8 had asked you in 2008 to look back at sales of
9 Mallinckrodt oxycodone to these three pharmacies listed
10 here as indirect customers, would you have been able to
11 access that information?

12 MR. DAVISON: Objection to form.

13 A. For the data that was submitted to us from
14 the distributor, yeah.

15 BY MS. GAFFNEY:

16 Q. And would the data submitted to you from
17 the distributor have shown an increase in sales from
18 month to month, if that's what the transaction --
19 scratch that.

20 What would the data from the distributor
21 have shown?

22 MR. DAVISON: Objection to form.

23 A. I can't be sure what it would have shown.

24 BY MS. GAFFNEY:

1 Q. Would you have been able to see the amount
2 of product ordered each month or purchased each month
3 by the indirect customer?

4 MR. DAVISON: Objection to form.

5 A. Only what the distributors submitted to us
6 on a chargeback, yeah.

7 BY MS. GAFFNEY:

8 Q. Would the sales tracing have covered sales
9 to indirect customers that wouldn't have been submitted
10 through the chargeback system?

11 MR. DAVISON: Objection to form.

12 A. Again, just not being sure about the full
13 meaning of a tracing, I can't really comment if that
14 would be comprehensive or not. I'm not sure.

15 BY MS. GAFFNEY:

16 Q. Do you remember if anyone at Mallinckrodt
17 following this presentation asked you to pull data on
18 the three pharmacies listed here?

19 MR. DAVISON: Objection.

20 A. I don't recall, no.

21 [Discussion off the record.]

22 BY MS. GAFFNEY:

23 Q. Do you remember what happened after this
24 July 15th meeting in terms of Mallinckrodt working with

1 IntegriChain?

2 MR. DAVISON: Objection to form.

3 A. No idea.

4 BY MS. GAFFNEY:

5 Q. Okay. I'm going to hand you what's marked
6 as Exhibit 12.

7 [Exhibit Mallinckrodt-Rowley-Kilper-012
8 marked for identification.]

9 Q. Bates number ends in 457251, and it's an
10 e-mail chain from July 2008. The most recent e-mail in
11 this chain is you forwarding it to Victor Borelli on
12 July 29th, 2008, but if you go back to the first e-mail
13 in the chain, it is an e-mail from Kimberly France to
14 the IntegriChain representatives on July 17th, so just
15 after this meeting from the presentation we were just
16 looking at.

17 And it appears that she's forwarded an
18 article about Cardinal Health being fined by the Ohio
19 Pharmacy Board for allegedly neglecting suspicious
20 orders, and then read through the e-mail chain.
21 Someone from IntegriChain replies with thanks for the
22 meeting on Tuesday, and then some follow-up items.
23 Kimberly France replies and adds Sue Werder to the
24 e-mail.

1 And you said earlier that you worked with
2 Sue Werder; is that correct?

3 A. Correct.

4 MR. DAVISON: Objection.

5 BY MS. GAFFNEY:

6 Q. She was in the contract administration
7 department with you? Or no?

8 A. No, she was who I went to work for when I
9 got promoted out of contract administration into trade
10 compliance.

11 Q. So if you keep following this e-mail
12 chain, Sue Werder on July 23rd e-mails Gordon Cummins,
13 who's one of the IntegriChain representatives. She
14 asks him for more information about NuCare. It is a
15 pharmacy highlighted as questionable in the
16 IntegriChain presentation.

17 Do you see that e-mail?

18 A. I do, yeah.

19 Q. And then following the e-mail chain,
20 there's some back and forth, and IntegriChain sends her
21 briefing on the company, on NuCare, which she then
22 forwards to you.

23 Do you remember if you discussed the
24 NuCare Pharmacy with Ms. Werder at this time?

1 MR. DAVISON: Objection to form.

2 A. I don't remember discussing it.

3 BY MS. GAFFNEY:

4 Q. So that brings us up to the top of the
5 document, and you write to Victor Borelli we are fine
6 opening up NuCare and paying chargebacks for sales to
7 them. As you read, it was the CEO back in 2002 that
8 engaged in illegal practices. You can let Master's
9 know they are fine.

10 Do you remember sending this e-mail to Mr.
11 Borelli?

12 A. No.

13 Q. Is it accurate to say that this is an
14 example of Mallinckrodt researching a downstream
15 customer to approve it for chargeback requests?

16 MR. DAVISON: Objection to form.

17 A. I -- that's what it appears.

18 BY MS. GAFFNEY:

19 Q. And is it your understanding that
20 NuCare -- is it your understanding from this e-mail
21 that NuCare was one of Master's customers?

22 MR. DAVISON: Objection to form.

23 A. That's what it appears.

24 BY MS. GAFFNEY:

1 Q. Would you agree that the IntegriChain
2 presentation prompted Mallinckrodt to research NuCare
3 Pharmacy?

4 MR. DAVISON: Objection to form.

5 A. Since I don't remember the IntegriChain
6 presentation, I can't really speak to whether or not
7 they're related. I'm not -- I mean, it appears from
8 the chain that they're involved, so -- but other than
9 reading this e-mail, I really don't know.

10 BY MS. GAFFNEY:

11 Q. And is it your recollection that
12 Mallinckrodt did not follow up on the information
13 highlighted about Gompers Pharmacy in the IntegriChain
14 presentation?

15 MR. DAVISON: Objection to form.

16 A. I have no idea if they followed up or not.

17 BY MS. GAFFNEY:

18 Q. Do you remember anyone asking you to run
19 reports on Gompers Pharmacy?

20 MR. DAVISON: Objection to form.

21 A. No.

22 BY MS. GAFFNEY:

23 Q. In your opinion, if that data was accurate
24 and there was a big jump in sales of oxycodone from one

1 month to another, would Mallinckrodt have a
2 responsibility to look into that?

3 MR. DAVISON: Objection to form.

4 A. I don't know. I feel like Mallinckrodt
5 always took a very diligent responsibility in our sales
6 and where the product went, so I know that I felt
7 comfortable that they were doing what they needed to
8 do.

9 BY MS. GAFFNEY:

10 Q. And if Mallinckrodt had wanted to research
11 Gompers Pharmacy in 2008 and look into those sales of
12 its oxycodone product to that indirect customer, would
13 it have been able to do that from the data it had?

14 MR. DAVISON: Objection to form.

15 A. I'm not sure if the data had Gompers
16 Pharmacy even in it. I never recall running anything
17 with them, so I have no idea what the data would show.

18 BY MS. GAFFNEY:

19 Q. If they were an indirect customer of
20 Mallinckrodt purchasing Mallinckrodt product, would
21 Mallinckrodt have data showing those purchases?

22 A. Yeah, if we received --

23 MR. DAVISON: Objection to form. Asked
24 and answered.

1 A. If we received chargebacks for them, then
2 yeah, the data would be there.

3 BY MS. GAFFNEY:

4 Q. A moment ago you said that you felt
5 Mallinckrodt always took diligent responsibility in its
6 sales and knowing where its product went. What do you
7 base that on?

8 A. Just my working there, and I just know
9 based on my time there that we always were trying to
10 improve the process and work to do whatever we could to
11 ensure that we had done our responsibility in that.

12 So -- I mean, it wasn't something that I
13 was particularly involved with other than those three
14 months, but I felt comfortable that we had a compliance
15 team that was doing their job in that.

16 Q. Okay. This is Exhibit 13.

17 [Exhibit Mallinckrodt-Rowley-Kilper-013
18 marked for identification.]

19 Q. And for the record, the Bates number ends
20 in 563507. It's an e-mail from you to Victor Borelli
21 and Kate Muhlenkamp, July 11th, 2008. I'll give you a
22 moment to look it over.

23 A. Okay.

24 Q. Can you explain to me what happened here,

1 what this e-mail chain is describing?

2 MR. DAVISON: Objection to form.

3 A. Other than just reading it today, I really
4 don't remember it at all. But my responsibility was
5 promotional. I helped -- or -- let me think how to say
6 it. For some time I played a role in stocking
7 allowances and promotional incentives, but I really
8 can't remember exactly what that role was, but that's
9 why I was involved here with the stocking allowance.

10 BY MS. GAFFNEY:

11 Q. It appears that Victor Borelli was asking
12 for this stocking allowance because of an unusual
13 circumstance. Is that accurate?

14 MR. DAVISON: Objection to form.

15 A. That's what it looks like, yeah.

16 BY MS. GAFFNEY:

17 Q. Is it your understanding that what is
18 described here is a customer of Mallinckrodt's,
19 Master's Pharmaceutical, wanting a chargeback that was
20 not processed because it turned out to be a
21 wholesaler-to-wholesaler transaction?

22 MR. DAVISON: Objection to form.

23 A. That's what it looks like in the e-mail.

24 BY MS. GAFFNEY:

1 Q. And then Mallinckrodt was able to do a
2 one-time stocking allowance to get them that payment
3 even though it wasn't a chargeback; is that accurate?

4 MR. DAVISON: Objection to form.

5 A. That's what it looks like, yeah.

6 BY MS. GAFFNEY:

7 Q. In this particular transaction, according
8 to this e-mail, the indirect customer, Medical Arts,
9 sold all of the Mallinckrodt product to a single
10 customer, South Florida Pain Management, and that
11 product was all oxycodone.

12 Does that raise any concerns for you with
13 respect to diversion?

14 MR. DAVISON: Objection to form.

15 A. It did not, no.

16 BY MS. GAFFNEY:

17 Q. You said earlier that your
18 responsibilities with compliance were limited to a
19 few-month period reviewing the peculiar order reports;
20 is that correct?

21 MR. DAVISON: Objection.

22 A. Correct.

23 BY MS. GAFFNEY:

24 Q. When you would review those peculiar order

1 reports for those few months, what were you looking
2 for?

3 A. I have no recollection the details of the
4 report, other than I know that I was trained and I
5 followed through on the procedure that I was taught,
6 but I really can't remember any of the details on what
7 I did. It was such a brief time, and I was getting
8 ready to leave, honestly.

9 Q. Would you agree, based on this e-mail
10 about this transaction, that Mallinckrodt had very
11 detailed information about where its product went, down
12 to the name of the pain clinic?

13 MR. DAVISON: Objection to form.

14 A. As I mentioned, the data that Mallinckrodt
15 had was from the chargebacks, so anything we had was
16 from the chargebacks that were submitted from the
17 wholesaler.

18 BY MS. GAFFNEY:

19 Q. Okay. And in this case, the wholesaler
20 submitted a chargeback request that the system then
21 denied; is that accurate?

22 MR. DAVISON: Objection.

23 A. That's what it appears.

24 BY MS. GAFFNEY:

1 Q. Are you familiar with what eventually
2 happened to Master's, Medical Arts, and South Florida
3 pain Management?

4 A. I am not --

5 MR. DAVISON: Objection to form.

6 A. I'm not, no.

7 BY MS. GAFFNEY:

8 Q. I'll represent to you here today that they
9 were all busted by federal investigators. Does that
10 cause you any concern that Mallinckrodt product went to
11 these entities that were later investigated for
12 diversion?

13 MR. DAVISON: Objection to form.

14 A. Does it cause me concern?

15 BY MS. GAFFNEY:

16 Q. (Nodding "yes.")

17 A. I don't feel like -- I'm not sure I
18 understand. I mean, it's concerning that we have an
19 opioid crisis, but I don't believe that Mallinckrodt
20 did anything wrong.

21 Q. Exhibit 13. Or no. I'm sorry. 14.

22 MS. GAFFNEY: Right? Yeah.

23 MR. KAWAMOTO: Yeah.

24 [Exhibit Mallinckrodt-Rowley-Kilper-014

1 marked for identification.]

2 MR. DAVISON: Do you have your glasses?

3 A. Yeah.

4 BY MS. GAFFNEY:

5 Q. I'll --

6 A. I brought some cheaters.

7 Q. I'll put this on -- this is also a
8 printing failure -- for the record, Exhibit 14 ends in
9 Bates number ending 6331001. It's an e-mail and an
10 attachment. Before we get to the attachment -- if you
11 turn to the end of the e-mail chain, the earliest
12 e-mail is from Cathie Gergen to you on October 14th,
13 2008.

14 Do you remember working with Cathie
15 Gergen?

16 A. I do not.

17 Q. So this is a data question. Could you
18 take a moment just to read through your reply to her
19 question? I'm hoping that then you can explain to me
20 what that means in layman's terms.

21 A. So mine wasn't -- mine doesn't appear to
22 be a reply. Mine is an e-mail to Kathy Weiss. Is that
23 what you want me to read?

24 Q. Yes.

1 A. Oh.

2 Q. I'm sorry. Yes. That's exactly what I
3 meant.

4 A. It appears that I'm wanting to get the
5 OptiSource members set up to receive the 867 and 852,
6 which I can't remember what those transactions are.
7 What else do you --

8 Q. Okay. My questions are about the 857 --
9 852 and 867. Is there anything that you can recall
10 sitting here today about those reports?

11 MR. DAVISON: Objection to form.

12 A. I mean, the 850 two is -- it says in the
13 e-mail that it's the inventory activity code, so other
14 than recalling that the 852 is the inventory data
15 that's submitted to us. That's all I can ascertain
16 from this e-mail.

17 BY MS. GAFFNEY:

18 Q. So Kathy Weiss says that she will work on
19 the Partner testing. Do you know what that refers to?

20 MR. DAVISON: Objection.

21 A. I really don't.

22 BY MS. GAFFNEY:

23 Q. She asks about sending Excel spreadsheets
24 to the pharma folks, and then if you flip to the first

1 page of this document, you ask her to send them to Kate
2 Muhlenkamp in generic marketing as well as Sara
3 Heideman.

4 Do you remember why you asked her to send
5 it to Kate in generic marketing?

6 MR. DAVISON: Objection.

7 A. No idea. Sorry.

8 BY MS. GAFFNEY:

9 Q. Okay. And then at the top it explains
10 what the attachment is -- the one attachment that's
11 included here is the Miami-Luken test 867. I don't
12 know if it will be legible.

13 MS. GAFFNEY: Can we zoom?

14 [Discussion off the record.]

15 BY MS. GAFFNEY:

16 Q. So this is the 867 data from Miami-Luken.
17 Thank you. It's actually legible. Okay. So it's got
18 dealer customer number, dealer customer name. It looks
19 like it's listing mainly pharmacies here.

20 Is it your understanding that the dealer
21 customer is the indirect customer?

22 MR. DAVISON: Objection to form.

23 A. I'm not familiar with the fields or this
24 report. Yeah, sorry.

1 BY MS. GAFFNEY:

2 Q. Which department would have handled the
3 867 data?

4 A. I'm not sure.

5 Q. Most of these pharmacies are in Ohio. Is
6 it your understanding that this shows sales of
7 Mallinckrodt product to these pharmacies in Ohio?

8 MR. DAVISON: Objection to form.

9 BY MS. GAFFNEY:

10 Q. I apologize for the printing.

11 A. I don't even see like our name --
12 Mallinckrodt's name on this, so I really have never
13 seen this data so I don't know if that's accurate or
14 not.

15 Q. Are you saying you think that this 867
16 data is not connected to Mallinckrodt?

17 MR. DAVISON: Objection to form.

18 A. I just never -- I can't recognize anything
19 from it that I don't -- yeah, I'm just saying I don't
20 recognize -- I recognize the NDC code, so yeah, I
21 guess, but, I'm just -- I've never seen this before so
22 I really can't speak to what it says.

23 BY MS. GAFFNEY:

24 Q. What's the NDC code?

1 A. It was our item number for the products,
2 and the field entitled Tyco item number -- some of them
3 have the full NDC and some of them have the partial,
4 and that's the only way that I recognized the -- oh, I
5 see. Dealer item number has our full NDC, so those
6 numbers look familiar to me, is all I'm saying.

7 Q. Okay. Okay. Then is it your
8 understanding that this 867 data in this chart is
9 showing sales of Mallinckrodt product through
10 Miami-Luken to pharmacies in Ohio?

11 MR. DAVISON: Objection to form.

12 A. I can't be sure what the data is.

13 BY MS. GAFFNEY:

14 Q. Do you have any understanding of how the
15 867 data was used?

16 MR. DAVISON: Objection.

17 A. No idea.

18 BY MS. GAFFNEY:

19 Q. So this spreadsheet shows a Tug Valley
20 Pharmacy in Williamson, West Virginia. If Tug Valley
21 Pharmacy submitted chargeback -- scratch that. If Tug
22 Valley Pharmacy is the indirect customer and
23 Miami-Luken is the direct customer, then it would have
24 been Miami-Luken submitting the chargeback requests; is

1 that correct?

2 MR. DAVISON: Objection to form.

3 A. Yes.

4 BY MS. GAFFNEY:

5 Q. So if Tug Valley Pharmacy was an indirect
6 customer of Mallinckrodt's customer at this time, which
7 was in 2008, that data reflecting that transaction to
8 Tug Valley Pharmacy would have been in the chargeback
9 system as well as in this 867 data; is that correct?

10 MR. DAVISON: Objection to form.

11 A. I'm not sure about that.

12 BY MS. GAFFNEY:

13 Q. What part of that aren't you sure about?

14 A. The 867 data.

15 Q. Okay. How about the chargeback system,
16 which you are familiar with? If Tug Valley Pharmacy
17 were an indirect customer of Mallinckrodt's customer,
18 Miami-Luken, would the chargeback system show
19 chargebacks to Tug Valley Pharmacy?

20 A. If Miam --

21 MR. DAVISON: Objection to form.

22 A. If Miami-Luken submitted them to us, yes.

23 BY MS. GAFFNEY:

24 Q. You mentioned that you were aware of the

1 opioid crisis from the media; is that correct?

2 A. Yes.

3 Q. Did you see any media reports about the
4 United States House Energy and Commerce Committee's
5 report on alleged pill dumping in West Virginia that
6 came out in December of last year?

7 A. No.

8 Q. Okay. That was covered in the media, and
9 I can represent to you today that the committee's
10 investigation found that Miami-Luken sold 6.4 million
11 hydrocodone and oxycodone pills to Tug Valley Pharmacy
12 from 2008 to 2015. That's in a town that has
13 approximately 2,700 people.

14 So if any of the hydrocodone and oxycodone
15 that Miami-Luken sold to Tug Valley Pharmacy were
16 Mallinckrodt products, would the record of those
17 transactions show up in Mallinckrodt's data?

18 MR. DAVISON: Objection to form.

19 A. If they were submitted in a chargeback for
20 Miami-Luken, yes.

21 BY MS. GAFFNEY:

22 Q. This is what's marked as Exhibit 15.

23 [Exhibit Mallinckrodt-Rowley-Kilper-015
24 marked for identification.]

1 Q. Bates number ending in 457174. It's an
2 e-mail from John Adams to you, Victor Borelli, Laura
3 Maher, and Kathy Weiss from June 23rd, 2009 -- forward
4 of new account forms.

5 Is this something that you would typically
6 receive -- new account forms -- as part of your work at
7 Mallinckrodt?

8 A. No.

9 Q. I think we talked earlier about the
10 customer data integrity group setting up new accounts.
11 Is that right?

12 A. Uh-huh.

13 Q. So as a general matter, new account forms
14 would go to CDIG?

15 A. Yes.

16 MR. DAVISON: Objection.

17 BY MS. GAFFNEY:

18 Q. Do you know why you received this?

19 MR. DAVISON: Objection. Form.

20 A. A lot of times the national account
21 managers would just copy me to make sure that things
22 would get done with shared services. I really -- it
23 was not necessary, but I noticed that a lot, so --

24 BY MS. GAFFNEY:

1 Q. Are some of the recipients of this e-mail
2 from CDIG?

3 A. Laura Maher.

4 Q. Just taking a look at the attachments, a
5 customer review checklist completed by Toby Bane. Do
6 you remember who he was at Mallinckrodt?

7 A. He was a national account manager.

8 [Discussion off the record.]

9 Q. So is it your understanding that the
10 national account managers would complete this checklist
11 prior to submitting new -- a new account request?

12 A. I'm not sure.

13 Q. As part of the new account opening
14 process, did you have any involvement?

15 A. None.

16 Q. So this -- the summary of the review here,
17 it says that this appears to be a legitimate,
18 well-controlled pharmaceutical business which primarily
19 caters to dispensing physicians, and then on the other
20 page it has a percentage of the current customer base
21 and geographic regions.

22 Is it your understanding that Mallinckrodt
23 prior to opening a new account would have information
24 about the indirect customer base?

1 MR. DAVISON: Objection to form.

2 A. I have no idea.

3 BY MS. GAFFNEY:

4 Q. And it also says do you process
5 chargebacks? If so, EDI? What's your understanding of
6 what that means?

7 A. The chargebacks would come in
8 electronically, and so I guess they were just asking if
9 they can handle that or some of the smaller
10 distributors maybe did the paper submissions versus
11 electronic.

12 Q. To understand the new account opening
13 process -- at what point would you have any involvement
14 in that process?

15 A. None.

16 Q. At what point would you enter pricing
17 information into the pricing system?

18 A. After a contract was signed, and that was
19 with direct customers. But setting them up or any of
20 that was -- they already had to be set up in order to
21 put pricing on the account, if that makes sense. Yeah.

22 MR. DAVISON: We've been going for another
23 hour. Is now a good time to take a quick break?

24 MS. GAFFNEY: Sure.

1 MR. DAVISON: Okay. Go off --

2 THE VIDEOGRAPHER: We are going off the
3 record at 11:12 AM.

4 [A brief recess was taken.]

5 THE VIDEOGRAPHER: We are back on the
6 record at 11:25 AM.

7 [Exhibit Mallinckrodt-Rowley-Kilper-016
8 marked for identification.]

9 BY MS. GAFFNEY:

10 Q. Okay. So Exhibit 16, for the record, ends
11 in Bates number 290095. It's an e-mail string with the
12 earliest e-mail dated August 10th, 2009. I'll just
13 give you a second to look it over.

14 A. Okay.

15 Q. Okay. So reading through these e-mails,
16 it appears that Karen Harper needed chargeback reports
17 pertaining to Sunrise Wholesale and was going to go
18 first to Kate Muhlenkamp for that. Is that your
19 understanding?

20 A. That's what it looks like. I don't
21 remember this.

22 Q. And then just going off of the document --
23 Kate Muhlenkamp was out of the office, so Karen Harper
24 and sent to Lisa Lundergan.

1 And do you remember working with Lisa
2 Lundergan?

3 A. Yes, she worked for me for a brief time.

4 Q. Oh, okay. In your same department?

5 A. She was a contract administrator, yeah.

6 Q. Would that --

7 THE VIDEOGRAPHER: I'm sorry, Ms. Gaffney.

8 [Discussion off the record.]

9 BY MS. GAFFNEY:

10 Q. Do you remember, Ms. Kilper, if the time
11 period in which Lisa Lundergan was in your department
12 was around the time of this e-mail in 2009?

13 A. I don't remember.

14 Q. And at that point in 2009, were you aware
15 that Kate Muhlenkamp was able to run chargeback
16 reports?

17 MR. DAVISON: Objection to form.

18 A. I know that Kate was very good with data
19 and would often be able to run reports, so I don't --
20 yes, I guess.

21 BY MS. GAFFNEY:

22 Q. And it appears from this e-mail chain that
23 Lisa Lundergan could also run chargeback reports. Is
24 that consistent with your understanding?

1 A. Yeah, Lisa moved over to marketing, and so
2 she did -- after she left my department she probably
3 learned how to run reports. I can't -- I mean, I don't
4 know for sure if she could run reports, but yeah, there
5 was a handful of people. There were plenty of people
6 that were familiar with the data, yeah.

7 Q. And when you say plenty of people who were
8 familiar with the data, you're talking about the
9 chargeback data?

10 A. All sales data, yeah.

11 Q. And who were some of those other people
12 who were familiar with the sales data?

13 A. I mean, I just knew Kate and Lisa. There
14 were some folks in marketing that just were very good
15 at -- they ran a lot of access reports and just good
16 with data. So yeah.

17 But it was -- Cognos was a tool that
18 anybody could -- well, I shouldn't say anybody could
19 use, but Cognos was a tool that we had available if you
20 wanted to run reports, so it wasn't like specific to
21 certain people or I don't know the people that were
22 able to run them. Does that make sense?

23 Q. Uh-huh.

24 A. Okay.

1 Q. And is it fair to say that using the
2 Cognos tool was not specific to a certain department at
3 Mallinckrodt?

4 A. It seems like it crossed departments --
5 the tool. Yeah.

6 Q. And which were the departments at
7 Mallinckrodt that would have used the Cognos tool most
8 often?

9 A. I'm not --

10 MR. DAVISON: Objection to form.

11 A. I'm not sure, other than my own -- like I
12 know that I had access to the tool. Beyond that, I
13 know Kate, so she was in marketing. But I don't know
14 other departments that had it.

15 BY MS. GAFFNEY:

16 Q. Just following this e-mail chain, it looks
17 like Cathy Stewart turns to Sara Heideman for help with
18 this task. Do you remember which department she was in
19 at Mallinckrodt?

20 A. I don't, no.

21 Q. And then the top of the e-mail chain, Sara
22 is e-mailing Cathy. She says I gave this a try, but
23 had no luck getting the data out of JDE. I reached out
24 to Tiffany Rowley for help, and she said that she could

1 provide this data to you, no problem.

2 Do you remember helping provide the
3 Sunrise data from JDE to Sara Heideman?

4 A. I don't.

5 Q. The data being requested here is
6 chargeback data; is that correct?

7 MR. DAVISON: Objection to form.

8 A. That's my understanding of the e-mail.

9 BY MS. GAFFNEY:

10 Q. And would that data come out of JDE?

11 MR. DAVISON: Objection to form.

12 A. No.

13 BY MS. GAFFNEY:

14 Q. Okay. Well, that might have been why Sara
15 needed to turn to you for help, then.

16 A. Right.

17 Q. Okay. JDE we spoke about earlier. That
18 was J.D. Edwards; is that right?

19 A. Right.

20 Q. And can you remind me what JDE -- what
21 sort of information was stored in JDE again?

22 A. I don't know comprehensively what was
23 stored in JDE. I just know that our direct sales were
24 shipped out of JDE.

1 Q. Okay. Let's go to the next exhibit.

2 Okay. Okay, you've been handed what's been marked
3 Exhibit 17.

4 [Exhibit Mallinckrodt-Rowley-Kilper-017
5 marked for identification.]

6 Q. For the record, it's Bates ending in
7 289983. This is an e-mail from John Adams dated
8 November 18th, 2009, with the subject East Main Street
9 Pharmacy sales, trailing 12 months. It looks like it's
10 a spreadsheet file attached.

11 So you are copied on this e-mail, and Mr.
12 Adams is e-mailing Victor Borelli and Steve Becker to
13 say that the East Main Street Pharmacy was shut down by
14 the DEA last week.

15 And if you look at the bottom of the
16 e-mail, the attachment is coming from you to John
17 Adams. You say see attached sales data. I've
18 indicated the distributor that sold them our product.

19 Can you look at the attached spreadsheet
20 and tell me which database that spreadsheet would have
21 been generated from?

22 A. This is from Cognos.

23 Q. Okay. Okay. And John Adams's e-mail to
24 Victor Borelli and Steven Becker says -- he says the

1 intent of the call is to make the above accounts aware,
2 as I'm sure they are -- let them know that we have
3 compiled an accurate list of purchases of our
4 controlled substances over the past 12 months to this
5 pharmacy and put it on file in the event of a review.
6 As you can see, there was a disproportionate amount of
7 oxy 15 and 30.

8 So when he says compiled an aggregate list
9 of purchases, is it your understanding he's referring
10 to this spreadsheet that was attached?

11 MR. DAVISON: Objection to form.

12 A. That's what it appears.

13 BY MS. GAFFNEY:

14 Q. And what's involved in compiling this
15 aggregate list of purchases?

16 MR. DAVISON: Objection to form.

17 A. You're asking how I ran it?

18 BY MS. GAFFNEY:

19 Q. Uh-huh.

20 A. Yeah, I don't remember the details of how
21 I ran it. I just remember that I had -- went out to
22 Cognos and pulled the data that -- I'm sure I used DEA
23 or -- I can't be sure, actually, what I used. But I
24 just know that I used Cognos to pull it.

1 Q. And on a very basic level, when you say
2 used Cognos to pull it, can you walk me through what
3 that might entail? What steps would you take to pull
4 that report?

5 A. I'm just not sure what I -- what steps I
6 took because I don't remember pulling it. It's just
7 been so long.

8 Q. Just as a general matter, what information
9 would you need to generate a report like this?

10 MR. DAVISON: Objection to form.

11 A. I'm not sure what data was provided to me.
12 I'm not sure if this was all that was provided to me
13 before I ran the report or not.

14 BY MS. GAFFNEY:

15 Q. If one of your co-workers at Mallinckrodt
16 gave you the name of a pharmacy, would that be enough,
17 or would you need more information?

18 MR. DAVISON: Objection to form.

19 A. More information.

20 BY MS. GAFFNEY:

21 Q. For example, what more information would
22 you need?

23 MR. DAVISON: Objection to form.

24 A. I mean, everything in our business was

1 done with a DEA number, so I mean, beyond that, beyond
2 the DEA number, I'm not sure what else I would need,
3 but yeah, we wouldn't typically go on just name.

4 BY MS. GAFFNEY:

5 Q. If you had the name of the pharmacy and
6 the DEA registration number, would you be able to
7 generate a report of the sales data?

8 MR. DAVISON: Objection.

9 A. To look like this? I'm not sure. I'm not
10 sure what data I used to pull this.

11 BY MS. GAFFNEY:

12 Q. Is it time-consuming to generate a report
13 like this?

14 MR. DAVISON: Objection.

15 A. I can't remember how long it would take to
16 do something like this, no.

17 BY MS. GAFFNEY:

18 Q. Do you remember as a general matter
19 whether it would take multiple work days?

20 MR. DAVISON: Objection.

21 A. I'm not exactly sure how long it took.

22 BY MS. GAFFNEY:

23 Q. Do you agree that this report shows sales
24 to a pharmacy in Columbus, Ohio?

1 A. It appears --

2 MR. DAVISON: Objection.

3 A. It appears that way.

4 BY MS. GAFFNEY:

5 Q. John Adams's e-mail says as you can see,
6 there was a disproportionate amount of oxy 15 and 30.

7 Would you agree that the reports generated
8 with the Cognos tool can show the proportion of product
9 purchased by Mallinckrodt's indirect customers?

10 MR. DAVISON: Objection.

11 A. I'm not sure whether or not the Cognos
12 data alone can say that. I'm not sure.

13 BY MS. GAFFNEY:

14 Q. If you wanted to provide information about
15 the about the proportion of products that an indirect
16 customer was purchasing, where would you look for that
17 data?

18 MR. DAVISON: Objection.

19 A. It wasn't my area of expertise to be
20 looking for a disproportionate amount of anything, so
21 I'm not sure where you would be able to find that
22 information.

23 BY MS. GAFFNEY:

24 Q. Okay. So just to break it down a little

1 bit, so when we're talking about the proportion of
2 products, we're just looking for the relative amounts
3 of Mallinckrodt product that an indirect customer
4 purchased; correct?

5 MR. DAVISON: Objection to form.

6 A. Is that what you're defining as
7 proportionate?

8 BY MS. GAFFNEY:

9 Q. I'm just trying to make it as simple as
10 possible.

11 A. Okay.

12 Q. I don't think we're talking about
13 something super complicated, but if you have a
14 different understanding of what the proportionate
15 amount of products purchased means, I'd like to hear
16 that.

17 A. I guess I'm just saying I don't know how
18 you would define proportionate or disproportionate, and
19 it certainly wasn't in my expertise to decide that,
20 so --

21 Q. Understood. But just to gather the
22 information that would show the proportionate products
23 purchased, so in order to see the proportion you'd just
24 need the total amount of Mallinckrodt products

1 purchased by an indirect customer; right?

2 MR. DAVISON: Objection to form.

3 A. I don't think that has anything to do with
4 proportionate or disproportionate amounts. That's
5 just -- I'm sorry. Maybe I'm misunderstanding what
6 you're asking.

7 BY MS. GAFFNEY:

8 Q. I'm sure I did not ask it very clearly.
9 John Adams in his e-mail says as you can see, there was
10 a disproportionate amount of oxy 15 and 30. So this
11 report -- it's split onto a few pages, but it lists
12 products -- Mallinckrodt products that went to East
13 Main Street Pharmacy in Columbus, Ohio; right?

14 A. Uh-huh.

15 Q. So in order to see the proportion, the
16 relative amounts of oxy 15 and 30, you were just
17 looking for the comparison of the amount of oxy 15
18 relative to other Mallinckrodt products purchased by
19 that indirect customer; is that fair to say?

20 MR. DAVISON: Objection to form.

21 A. So you're defining disproportionate as
22 relative to the other Mallinckrodt products on that --

23 BY MS. GAFFNEY:

24 Q. I'm not talking about disproportionate

1 yet.

2 A. Oh, okay.

3 Q. I'm just talking about identifying
4 information that would show you relative proportions of
5 product purchased.

6 A. Among our portfolio products?

7 Q. Uh-huh.

8 A. Yes. Okay.

9 Q. So that --

10 A. With you.

11 Q. So trying to get to that information in
12 the data that Mallinckrodt has, where would you go to
13 pull a report that would show, for example, the
14 products -- the Mallinckrodt portfolio products that
15 went to an end customer like East Main Street Pharmacy?

16 MR. DAVISON: Objection to form.

17 A. Cognos.

18 BY MS. GAFFNEY:

19 Q. Cognos? Okay. So is it fair to say that
20 those amounts were relatively easy to access in the
21 Cognos -- through the Cognos tool?

22 A. I don't remember in the --

23 MR. DAVISON: Objection to form. Sorry.

24 A. I don't remember if the report was easy to

1 run. I just don't remember. It was obtainable, yeah.

2 BY MS. GAFFNEY:

3 Q. And you and other people at Mallinckrodt
4 could generate those reports and provide them upon
5 request?

6 A. Correct.

7 Q. And then is it fair to say that whether or
8 not those amounts were proportionate or
9 disproportionate was not within your responsibilities
10 at Mallinckrodt to decide?

11 A. Correct.

12 Q. And fair to say that you would provide the
13 information to others at Mallinckrodt when requested?

14 A. Correct.

15 MR. DAVISON: Objection to form.

16 BY MS. GAFFNEY:

17 Q. There's Exhibit 18.

18 [Exhibit Mallinckrodt-Rowley-Kilper-018
19 marked for identification.]

20 Q. The Bates number ends in 421620. And if
21 you look through the e-mail chain, you can see that
22 this is a continuation of the e-mail that we were just
23 discussing; is that right?

24 A. It appears to be, yes.

1 Q. So subsequent to the e-mail that we were
2 just discussing, Karen Harper e-mails you the next day,
3 on November 19th, 2009, asking you whether it's
4 feasible to run chargeback summary reports each time
5 her group receives information about DEA actions
6 against pharmacies or physicians.

7 And you reply sure, Karen. I can always
8 provide that data. I will set up a report and just
9 plug in the DEA number to see where the product went
10 from the distributor.

11 So is that what we were just talking about
12 in terms of using the Cognos tool? When you say set up
13 a report, is that through Cognos?

14 A. Yes.

15 Q. And when you say set up a report, is that
16 a one-time action or would that be a report that the
17 tool would continue to generate once you've set it up?

18 A. I can't remember the system well enough to
19 say whether or not you could save reports or -- like
20 save them or not. It sounds like in the e-mail that
21 possibly you could save them, but I can't recall for
22 sure.

23 Q. And you ask her would the previous 12
24 months make sense or would another time frame be more

1 meaningful for your purpose?

2 Is time frame a variable that you can use
3 when setting these reports?

4 A. Yes.

5 Q. How far back could you go?

6 A. I don't know.

7 Q. And it appears from the e-mail where you
8 say I will set up a report and just plug in the DEA
9 number that the DEA number and the name of the pharmacy
10 would be sufficient to generate the report. Does that
11 seem fair to say?

12 MR. DAVISON: Objection to form.

13 A. I don't -- I mean, I reference setting up
14 a report, so yeah, I would need more -- I'd have to
15 know more information, I think, than just a DEA number.
16 I -- based on what I said, I'm not sure how -- what
17 information I used to set up the report. I just can't
18 remember.

19 BY MS. GAFFNEY:

20 Q. Looking back at Karen's e-mail, she says
21 I'm trying to figure out how to tie chargeback
22 summaries into the program, realizing that chargeback
23 data is for our customers' customers. The sentence
24 above that says I've been working with John Adams --

1 DEA-mandated suspicious --

2 [Interruption by the reporter.]

3 Q. -- order monitoring program and make it
4 as robust as possible. So Karen Harper is e-mailing
5 you because she -- as she states, in November 2009
6 she's trying to figure out how to tie chargeback
7 summaries into the program.

8 Is it your understanding she's referring
9 to the suspicious order monitoring program?

10 MR. DAVISON: Objection to form.

11 A. Well, the e-mail states that she's
12 referring to it.

13 BY MS. GAFFNEY:

14 Q. Great. Do you recall whether after this
15 e-mail exchange in November 2009, Karen Harper ever
16 asked you to run chargeback reports as part of the
17 suspicious order monitoring program?

18 A. I don't remember, no.

19 Q. But you told her you could always provide
20 that and you just need to plug in the DEA number; is
21 that correct?

22 MR. DAVISON: Objection.

23 A. Looks like what I told her, yeah.

24 BY MS. GAFFNEY:

1 Q. Okay. You've been handed what's been
2 marked as Exhibit 19, Bates number ending 474370.

3 [Exhibit Mallinckrodt-Rowley-Kilper-019
4 marked for identification.]

5 Q. And this exhibit is another continuation
6 of the same e-mail string. Or I should say that it is
7 a continuation of portions of the prior e-mail string
8 that we were just looking at. I'll give you a sec to
9 read through.

10 A. Okay.

11 Q. Okay. So we have Karen e-mailing you in
12 February 2010, apparently in response to the e-mail
13 that we were just looking at when you e-mailed her
14 November 2009 saying you can always provide that data.

15 She e-mails you in February saying we
16 exchanged e-mails several months ago about running
17 chargeback reports as a benefit to the business based
18 upon information we received regarding DEA actions
19 requesting registrants and industry news.

20 And she's asking whether it would be
21 feasible -- she says it is now apparent there will be
22 more than one to two requests per month and wants to
23 know if that's feasible. And then your response is
24 to -- you respond the same day to Karen Harper and ask

1 for an estimate of how frequent or how many end user
2 inquiries per month so that you can run it by your
3 manager; correct?

4 MR. DAVISON: Objection to form.

5 A. That's what it looks like.

6 BY MS. GAFFNEY:

7 Q. You also explain I just pulled the data
8 from Cognos. It's nothing complicated at all. I'd be
9 happy to train someone in your group to do this if that
10 makes more sense.

11 Did Karen Harper ever ask you to train
12 anyone in the compliance group on Cognos?

13 A. I don't remember.

14 Q. What's your understanding of how running
15 chargeback reports would support Karen Harper's group?

16 MR. DAVISON: Objection.

17 A. I'm not sure, really, because this was
18 about my interaction with Karen Harper. Beyond that, I
19 don't remember anything, so I'm not sure how they would
20 correlate.

21 BY MS. GAFFNEY:

22 Q. Do you have any understanding of why the
23 compliance department would ask you for chargeback
24 reports?

1 MR. DAVISON: Objection.

2 A. Just because they didn't know how to use
3 the Cognos tool.

4 BY MS. GAFFNEY:

5 Q. And as you explain, it's nothing
6 complicated at all and you can train someone in their
7 group to do that, but you don't recall ever training
8 anyone in --

9 A. I don't --

10 MR. DAVISON: Objection.

11 A. Yeah, I don't remember if I did or not.

12 BY MS. GAFFNEY:

13 Q. Exhibit 20, for the record, ends in Bates
14 number 421736.

15 [Exhibit Mallinckrodt-Rowley-Kilper-020
16 marked for identification.]

17 Q. This is another continuation of the same
18 e-mail conversation.

19 A. Okay.

20 Q. On the second page you can see the e-mail
21 that we were just discussing from February 22nd where
22 you offered to pull the data from Cognos or train
23 someone from their group. And then it looks like the
24 next e-mail is from Carrie Johnson on March 8th, 2010.

1 Do you remember what Carrie's Johnson's
2 role at Mallinckrodt was?

3 A. Nope.

4 Q. So Carrie Johnson is asking on March 8th
5 if anything has been figured out on the chargeback
6 requests yet, and then you reply asking Karen whether
7 something was in your court with this and reminding her
8 that you never heard back from your prior e-mail; is
9 that right?

10 MR. DAVISON: Objection.

11 A. That's what it looks like.

12 BY MS. GAFFNEY:

13 Q. To which Karen says the ball's in her
14 court -- speak to Carrie and get back in touch. Do you
15 remember if Karen ever got back in touch with you
16 following this e-mail?

17 A. I don't remember.

18 Q. Exhibit 21, for the record, ends in Bates
19 286532.

20 [Exhibit Mallinckrodt-Rowley-Kilper-021
21 marked for identification.]

22 A. Okay.

23 Q. Okay. So the last e-mail we looked at,
24 Karen Harper had said in March of 2010 that the ball

1 was in her court, she'll speak to Carrie and follow up
2 with you, and then it looks like here in May 2010 she's
3 following up with you. Is that fair to say?

4 MR. DAVISON: Objection.

5 A. That's what it looks like, yeah.

6 BY MS. GAFFNEY:

7 Q. So she's directing Carrie to work with you
8 to determine if Carrie can access the programs
9 necessary to run chargeback reports associated with the
10 compliance -- C slash S -- controlled substance
11 compliance industry news for Mallinckrodt commercial
12 team initiative.

13 Do you remember working with Carrie
14 Johnson on this initiative?

15 A. I don't even remember who Carrie Johnson
16 was. Sorry.

17 Q. So we'll just follow the e-mail. Carrie
18 Johnson's asking what programs you use, and you answer
19 that you run queries in Cognos Report Studio, the new
20 Impromptu. Can you tell me about Impromptu?

21 MR. DAVISON: Objection to form.

22 A. Other than it was a report writer. That's
23 all I remember.

24 BY MS. GAFFNEY:

1 Q. Do you remember at what time Mallinckrodt
2 switched from using Impromptu to using Cognos?

3 A. No idea. Sorry.

4 Q. So Carrie's saying she doesn't know if she
5 has access; she doesn't know what it is, and then you
6 explained to her that if she's going to be doing
7 analysis on chargeback data, I don't know of any other
8 way to do that besides using the sales history tool,
9 Cognos. And I know they offer training, and the
10 queries are pretty simple to learn.

11 When you say I know they offer training,
12 who's they?

13 A. I'm not sure.

14 Q. Do you remember if that would have been
15 the company that makes Cognos?

16 MR. DAVISON: Objection.

17 A. No, there was an outside company that came
18 and trained us, so it was internal, but I can't
19 remember who.

20 BY MS. GAFFNEY:

21 Q. You said I would also be happy to help and
22 can show you some of the reports I built just checking
23 the data for Karen in the past.

24 Do you remember what sort of data you

1 would check for Karen?

2 A. I don't remember, but this -- the report
3 that was in one of these e-mails is what I remember
4 checking for her.

5 Q. Are you referring to the report that John
6 Adams had attached in that e-mail that was -- he
7 referred to as aggregate purchase data?

8 A. Wasn't that -- I thought one of the last
9 few attachments we just talked about was me providing a
10 report to Karen. Was it in this chain here? I don't
11 know. I mean, other than just what we've been through
12 here, I have no recollection of running things for
13 Karen. It would be the examples of what we've already
14 looked at. Yeah.

15 Q. It looks like from this e-mail that
16 Carolyn was working on getting set up to get access to
17 Cognos Report Studio.

18 Do you remember if she ever got access to
19 Cognos?

20 A. I don't know.

21 Q. Do you remember if during your time at
22 Mallinckrodt, other people ran chargeback data reports
23 for the compliance group besides you?

24 A. I don't know.

1 Q. But it is your recollection that you would
2 on occasion run chargeback data reports for Karen?

3 MR. DAVISON: Objection.

4 A. On very sporadic occasion, yeah.

5 BY MS. GAFFNEY:

6 Q. When you mention that the queries are
7 pretty simple to learn, can you give me an example of a
8 query that you would use?

9 MR. DAVISON: Objection. Form.

10 A. My only recollection has been from this
11 time here today and the one report that I said that I
12 ran from Cognos. That's what I'm thinking is the only
13 thing I remember about what they looked like.

14 BY MS. GAFFNEY:

15 Q. Okay. So an example of a query would be
16 plugging in the DEA number as we discussed previously?

17 MR. DAVISON: Objection to form.

18 A. I mean, I don't remember setting up a
19 report where I plugged in a DEA number. I just
20 referred to in an e-mail that you can do that. I don't
21 remember doing that. But all I'm saying is I just
22 remember like what the reports look like. They had
23 those types of fields that we saw on that last report.

24 Q. And like I mentioned, I'm not a tech

1 person, so I'm just trying to ask what an example of a
2 query is.

3 A. Oh.

4 Q. What does that refer to in this context?

5 MR. DAVISON: Objection.

6 A. A query is just what your -- the data
7 you're wanting to get back. So all the fields in that
8 one attachment that we looked at that I said I ran from
9 Cognos -- it's got various fields, and in my
10 understanding of what I did, that was a query.

11 BY MS. GAFFNEY:

12 Q. Okay. Thank you.

13 [Exhibit Mallinckrodt-Rowley-Kilper-022
14 marked for identification.]

15 Q. Exhibit 22 is Bates number 289889, and it
16 is an e-mail exchange between you and Karen Harper on
17 June 29th, 2010.

18 A. Okay.

19 Q. Okay. And you wrote to Karen that you
20 spoke to your boss, Carol Svejkosky, briefly regarding
21 the reports you request, and she's fine with you
22 running them going forward, or she also mentioned Sandy
23 Ivancho supports the commercial business specifically
24 by providing sales reports and other data assistance.

1 So earlier you mentioned that there were
2 various people at Mallinckrodt who were good with data
3 and worked with it regularly. Would this be an example
4 of one of the people you were thinking of?

5 A. Yes.

6 Q. You mentioned not being sure whether all
7 of the JDE and Cognos training is necessary to get
8 Carrie up to speed. Is the familiarity with the JDE
9 database also required to pull the Cognos -- or I'm
10 sorry -- to pull the chargeback reports?

11 MR. DAVISON: Objection to form.

12 A. I'm not sure if familiarity with JDE was
13 necessary or not, actually.

14 BY MS. GAFFNEY:

15 Q. Okay. And you wrote it seems like a lot
16 of training to obtain something very simple when you
17 know the system and the data well. Is it fair to say
18 we've seen you in these e-mails describe it as simple
19 to pull the chargeback data?

20 MR. DAVISON: Objection to form.

21 A. I describe it as simple, so yeah, I felt
22 comfortable with the system. I've been there a long
23 time. So yeah.

24 BY MS. GAFFNEY:

1 Q. So Karen Harper says I can't thank you
2 enough for the collaborative report. We will accept
3 your offer and appreciate the availability of
4 chargeback reports going forward. This is in June
5 2010.

6 Do you recall whether you started
7 providing chargeback reports to Karen Harper and her
8 group regularly after this e-mail?

9 A. I don't remember.

10 Q. Do you recall breathe you provided any to
11 Karen Harper and her group after this date?

12 A. I don't know about the dates. Yeah, I
13 know I've provided some to her. I just don't know
14 exactly when they were and if they were after this.

15 Q. And your recollection is that you provided
16 them intermittently; is that right?

17 A. Correct.

18 MR. DAVISON: Objection to form.

19 BY MS. GAFFNEY:

20 Q. Earlier when I asked you about whether you
21 were involved in suspicious order monitoring efforts,
22 and you said only for those few months that you
23 reviewed the peculiar order reports.

24 Would you understand providing chargeback

1 data reports to Karen Harper to be involved in
2 suspicious order monitoring?

3 A. I didn't really see it that way, no. I
4 was often running reports for people and just helping
5 in various functions, so I didn't really see it as a
6 compliance-related task. I just was providing
7 something that they needed.

8 Q. When you transitioned to reviewing the
9 peculiar order reports for those few months, did
10 Mallinckrodt provide training to you on the Controlled
11 Substance Act?

12 MR. DAVISON: Objection to form.

13 A. I don't remember training specifically on
14 the Controlled Substance Act. I do remember being
15 trained and sitting with Jim Rausch.

16 BY MS. GAFFNEY:

17 Q. What do you remember of that training?

18 A. Other than just sitting with Jim Rausch at
19 his desk, nothing. Yeah.

20 Q. You were -- at the time when you
21 transitioned to reviewing the peculiar order reports,
22 you had said you were preparing to leave for family
23 reasons.

24 Did Mallinckrodt know that you were

1 planning to leave when they transitioned you to
2 reviewing the peculiar order reports?

3 MR. DAVISON: Objection to form.

4 A. No, I don't believe so.

5 BY MS. GAFFNEY:

6 Q. Exhibit 23.

7 [Exhibit Mallinckrodt-Rowley-Kilper-023
8 marked for identification.]

9 Q. For the record, Exhibit 23 ends in Bates
10 561207. It's an e-mail chain with the most recent
11 e-mail dated July 8th, 2010. Ms. Kilper, you are not
12 on this e-mail chain but you're mentioned in it.

13 Karen Harper is e-mailing Kate Muhlenkamp,
14 and she says Kate, also be advised that we are working
15 with Tiffany Rowley-Kilper to establish a system to run
16 chargeback reports related to suspicious order
17 monitoring as needed, and we will not be calling on you
18 for this in the future.

19 Do you remember working with Karen Harper
20 to establish a system to run chargeback reports?

21 A. Other than what we've read through the
22 e-mails, I don't remember anything else, or -- yeah.

23 Q. And is it fair to say that the e-mails
24 we've read through reflect Karen Harper asking you

1 about the availability of you providing these reports
2 and you responding that you are able to provide those
3 reports when she needs them?

4 MR. DAVISON: Objection to form.

5 A. That's what the e-mails indicated, yeah.

6 BY MS. GAFFNEY:

7 Q. So beyond her asking about the
8 availability of those reports and you confirming that
9 you could provide them, did you do anything with Karen
10 Harper to, as she says here, establish a system to run
11 chargeback reports related to suspicious order
12 monitoring?

13 MR. DAVISON: Object --

14 A. Not that I can remember.

15 BY MS. GAFFNEY:

16 Q. Just taking a look at this e-mail chain,
17 it starts with Victor Borelli e-mailing Kate
18 Muhlenkamp. From his e-mail, it appears that one of
19 his customers, KMI, KeySource Medical, is asking him
20 for a favor to determine whether the indirect customer
21 is getting Mallinckrodt product from anyone else.

22 Is it your understanding that this sort of
23 thing is typical, that an indirect customer would
24 request information from Mallinckrodt --

1 MR. DAVISON: Objection.

2 BY MS. GAFFNEY:

3 Q. -- of this nature?

4 MR. DAVISON: Objection.

5 A. Not to my knowledge, no.

6 BY MS. GAFFNEY:

7 Q. Karen had in this e-mail said to Kate
8 Muhlenkamp, now that she's working with you, she'll be
9 not calling on Kate Muhlenkamp for this in the future.

10 Did you train Kate Muhlenkamp on how to
11 run chargeback reports?

12 A. No.

13 Q. And do you remember what department Kate
14 Muhlenkamp was in?

15 A. Marketing.

16 Q. And is it your understanding that the
17 marketing department would work with Cognos regularly?

18 MR. DAVISON: Objection.

19 A. Not necessarily the marketing department
20 as a whole, but certainly individuals in it were pretty
21 data-savvy.

22 BY MS. GAFFNEY:

23 Q. Do you recall ever having meetings with
24 people from the suspicious order monitoring team about

1 how to utilize chargeback data?

2 A. No.

3 Q. You've been handed Exhibit 24, Bates
4 number ending in 268194.

5 [Exhibit Mallinckrodt-Rowley-Kilper-024
6 marked for identification.]

7 Q. This appears to be a calendar entry, and
8 from what I can tell printed from your e-mail. Does
9 that seem accurate to you?

10 MR. DAVISON: Objection.

11 A. Yes.

12 BY MS. GAFFNEY:

13 Q. And the calendar entry is for a meeting in
14 July 2010. Is that your handwriting on this document?

15 A. Yes.

16 Q. Is it your recollection that you attended
17 this meeting?

18 A. I don't recall.

19 Q. The meeting purpose, according to this
20 document, is that recent DEA enforcement action taken
21 within industry, including two Mallinckrodt customers,
22 merits a review of our existing controlled substance
23 suspicious order monitoring program, and then one item
24 on the engine agenda is to review additional internal

1 resources that exist for analyzing inputs, chargebacks,
2 sales trending.

3 Do you know what sales trending refers to
4 here?

5 A. I do not.

6 Q. Can you -- based on your experience
7 working for Mallinckrodt over -- for over a decade and
8 working with this data, with sales data, do you have
9 any idea what sales trending might refer to?

10 MR. DAVISON: Objection to form.

11 A. I don't -- I wouldn't want to guess, so
12 no.

13 BY MS. GAFFNEY:

14 Q. And in your handwriting here it says 99
15 percent of orders legit so do not hold orders. What's
16 that based on?

17 MR. DAVISON: Objection to form.

18 A. What is the statement based on?

19 BY MS. GAFFNEY:

20 Q. (Nodding "yes.")

21 A. I don't know. I'm not sure if these are
22 notes from the meeting or not. I'm not sure.

23 Q. So with the agenda item to review
24 additional internal resources that exist for analyzing

1 inputs, chargebacks, and sales trending, do you recall
2 providing information to this group about these
3 internal resources that exist for analyzing inputs?

4 A. I don't remember, no.

5 Q. Based on your experience working at
6 Mallinckrodt, what would be some of the internal
7 resources available for analyzing inputs that relate to
8 suspicious order monitoring?

9 MR. DAVISON: Objection to form.

10 A. Cognos is -- yeah. I mean, I didn't write
11 that, so -- but they're referring to chargeback data,
12 so Cognos, I guess.

13 MS. GAFFNEY: Okay. You can put that
14 aside.

15 MR. DAVISON: Should we go ahead and take
16 a lunch break?

17 MS. GAFFNEY: I was just about to ask.

18 MR. DAVISON: On the same page. Going off
19 the record.

20 THE VIDEOGRAPHER: We are going off the
21 record at 12:24 PM.

22 [A recess was taken.]

23 THE VIDEOGRAPHER: We are back on the
24 record at 1:10 PM.

1 BY MS. GAFFNEY:

2 Q. Okay. Welcome back from lunch, Ms.

3 Kilper. Do you recall this morning reviewing e-mails
4 in which you said that pulling the reports from Cognos
5 was simple?

6 A. I remember the e-mail, yeah.

7 Q. And do you recall testifying earlier that
8 many people at Mallinckrodt were savvy with data and
9 had access to Cognos?

10 A. Yeah, I don't know if I said many or --
11 but yeah, there were several.

12 Q. Do you recall reviewing e-mails in which
13 you offered to train people on Cognos?

14 A. Yeah.

15 Q. And do you recall ever training anyone on
16 Cognos?

17 A. Not that I recall.

18 Q. Were there ever restrictions on whom you
19 could have trained on Cognos?

20 MR. DAVISON: Objection to form.

21 A. Not that I could recall.

22 BY MS. GAFFNEY:

23 Q. So if anyone had wanted to take you up on
24 that offer to be trained on Cognos, you would have been

1 able to train them on how to use the program?

2 A. I would have checked --

3 MR. DAVISON: No objection.

4 A. I would have checked with my boss.

5 BY MS. GAFFNEY:

6 Q. And would you have any reason to think
7 that you would be limited in who you could train on
8 using Cognos?

9 MR. DAVISON: Objection to form.

10 A. I'm not -- yeah, I'm not sure. I would
11 assume that it would have to be relevant to their job,
12 but yeah, I just would have had to run it by my boss
13 and see if it was -- if it made sense.

14 BY MS. GAFFNEY:

15 Q. Do you recall any efforts to incorporate
16 chargeback data into suspicious order monitoring?

17 A. I don't --

18 MR. DAVISON: Objection to form.

19 A. I don't recall any efforts beyond what
20 we've already talked about here.

21 BY MS. GAFFNEY:

22 Q. And how would you characterize the efforts
23 that we've talked about here?

24 MR. DAVISON: Objection to form.

1 A. Just the intermittent communication with
2 Karen Harper on getting chargeback data.

3 BY MS. GAFFNEY:

4 Q. Do you know whether the -- scratch that.
5 Do you have any reason to believe that the compliance
6 department placed a high priority on using chargeback
7 data connected to suspicious order monitoring?

8 MR. DAVISON: Objection to form.

9 A. I'm sorry. Can you repeat the question?

10 BY MS. GAFFNEY:

11 Q. Uh-huh. Do you have any reason to believe
12 that the compliance department placed a high priority
13 on using chargeback data in connection to suspicious
14 order monitoring?

15 MR. DAVISON: Same objection.

16 A. I don't feel like I can speak to if they
17 placed a high priority on it or not.

18 BY MS. GAFFNEY:

19 Q. Do you recall anyone from the compliance
20 department ever discussing the need to use chargeback
21 data for suspicious order monitoring with you?

22 MR. DAVISON: Objection to form.

23 A. Other than the communication we've seen in
24 the e-mails today from Karen, no.

1 BY MS. GAFFNEY:

2 Q. And you testified earlier that there were
3 several people who had -- who were savvy with data and
4 had access to Cognos; is that accurate?

5 A. Correct.

6 MR. DAVISON: Objection.

7 BY MS. GAFFNEY:

8 Q. Were there any restrictions on people at
9 Mallinckrodt who had access to Cognos?

10 MR. DAVISON: Objection.

11 A. What type of restrictions?

12 BY MS. GAFFNEY:

13 Q. I don't know whether there would be any;
14 that's why I'm asking you. Could anybody -- you said
15 it had to be relevant to their job?

16 A. No, you were asking if I would train
17 anyone.

18 Q. Train them. Right. Okay. So that was in
19 the context of training, but just in terms of having
20 access to Cognos, I believe you testified earlier that
21 people across various departments had access to it.

22 A. Correct.

23 Q. Were there any restrictions within
24 Mallinckrodt on employees having access to Cognos?

1 A. I'm not --

2 MR. DAVISON: Objection.

3 A. I'm not aware of if there were
4 restrictions or not.

5 BY MS. GAFFNEY:

6 Q. I believe we discussed that Cognos is the
7 report-generating tool and Partner is the system used
8 for actually processing chargebacks. Is that correct?

9 A. Correct.

10 Q. Do you remember back -- we looked at a
11 document from 2002 that referenced you sitting with
12 each member of the compliance department early on. Do
13 you remember at that time whether Mallinckrodt used
14 Cognos or whether it used Impromptu or another program?

15 MR. DAVISON: Objection to form.

16 A. I don't remember when the change happened
17 from Impromptu to Cognos.

18 BY MS. GAFFNEY:

19 Q. When you started at Mallinckrodt, which
20 would have been in 1999, was Mallinckrodt using Cognos
21 at that time, or did the change happen at some point
22 during your employment there?

23 MR. DAVISON: Objection.

24 A. I'm actually not sure because at some

1 point I was made aware of Cognos, but that doesn't mean
2 they didn't have it before I was made aware of it, so
3 yeah.

4 BY MS. GAFFNEY:

5 Q. And as we discussed from that document
6 from 2002, you went and sat with everybody in the
7 chargeback department, so fair to say that in 2002
8 Mallinckrodt had a chargeback department?

9 A. Correct.

10 MR. DAVISON: Objection.

11 BY MS. GAFFNEY:

12 Q. And Mallinckrodt was -- had a system in
13 place to honor chargeback requests at that time?

14 A. Yes.

15 Q. Do you have an understanding of how long
16 Mallinckrodt has had a system in place to honor
17 chargeback requests?

18 A. No, I have no idea.

19 Q. Was the chargeback system in place when
20 you started in 1999?

21 A. Yes.

22 Q. And in order to honor a chargeback
23 request, you need to have data specific to the indirect
24 customer; is that accurate?

1 MR. DAVISON: Objection.

2 A. Since I didn't process the chargebacks,
3 I'm not sure exactly what was necessary to process it.

4 BY MS. GAFFNEY:

5 Q. But fair to say you would have needed to
6 have known -- need to have known who the indirect
7 customer was? Is that fair?

8 MR. DAVISON: Objection.

9 A. The indirect customer would have had to
10 have been on the transaction to pay, yes.

11 BY MS. GAFFNEY:

12 Q. To pay the chargeback? Is it also
13 accurate to say you would have needed to know -- to
14 have known the details about the product that was
15 shipped to the indirect customer and the amount of that
16 product --

17 MR. DAVISON: Objection.

18 BY MS. GAFFNEY:

19 Q. -- in order to process a chargeback
20 request?

21 A. Yes.

22 MR. DAVISON: Objection.

23 BY MS. GAFFNEY:

24 Q. So if Mallinckrodt was honoring chargeback

1 requests in 1999, it must have had a way to track at
2 least those data points -- who the indirect customer
3 was, the amount -- what the product was and the amount
4 of product involved in the transaction; is that
5 accurate?

6 MR. DAVISON: Objection.

7 A. You said track. I don't know about
8 tracking it, but to process it, to pay it, yes.

9 BY MS. GAFFNEY:

10 Q. Do you recall ever being trained on the
11 characteristics of a suspicious order?

12 A. I --

13 MR. DAVISON: Objection.

14 A. I remember that I sat with Jim and he
15 trained me, but I don't remember the details of that
16 training.

17 BY MS. GAFFNEY:

18 Q. Do you recall whether that training
19 involved the requirements of regulations under the
20 Controlled Substances Act?

21 MR. DAVISON: Objection.

22 A. I really don't remember any of the details
23 of the training at all.

24 BY MS. GAFFNEY:

1 Q. Are you aware that controlled substances
2 are classified by schedule -- for example, Schedule
3 III, Schedule II controlled substances?

4 A. Yes.

5 Q. Can you give examples of what some
6 controlled -- Schedule II controlled substances are?

7 A. I really don't even remember the portfolio
8 of products and what would constitute Schedule II
9 versus Schedule III or -- it just wasn't my area of
10 expertise.

11 Q. When you began reviewing peculiar orders,
12 did you feel that you were qualified to review those
13 peculiar order reports?

14 MR. DAVISON: Objection. Form.

15 A. I was given the task, and I felt like I
16 could do what they asked me to do. Whether or not I
17 was qualified is -- I can't really speak to that
18 necessarily. It's just I felt capable of administering
19 what they were asking me to do with it.

20 BY MS. GAFFNEY:

21 Q. And what is it that they were asking you
22 to do with it?

23 A. I don't remember the details, but I just
24 don't remember thinking this isn't something I get or

1 this isn't something I could do. I take my job
2 seriously, and I would have taken that very seriously,
3 like I took everything that was asked of me there.

4 So I just know that I would have done the
5 job that was required, even though I can't remember the
6 details of it. It's just such a short time so many
7 years ago.

8 Q. Do you recall testifying earlier that you
9 didn't have a sense of what might make an order of oxy
10 15 and 30 disproportionate or proportionate?

11 A. Yes.

12 Q. Is whether an order of a controlled
13 substances like oxy 15 or 30 is disproportionate or
14 proportionate something that you would be looking for
15 in a peculiar order report?

16 MR. DAVISON: Objection to form.

17 A. I just, again, don't remember the details
18 of the suspicious order report, and it was something
19 that was generated from and created from a group of
20 people that did not include me, so that was already set
21 and what I was asked to do was look at it, and I don't
22 remember beyond that what I was doing -- the details of
23 it. But whether or not it was proportionate or
24 disproportionate was decided outside of my

1 responsibility.

2 BY MS. GAFFNEY:

3 Q. Even when you were reviewing the peculiar
4 order reports?

5 A. What kicked out in the form of a report.
6 So the algorithm that was set was something that was
7 done outside of me, and then I was asked to review it
8 and handle whatever I was supposed to handle, which I
9 just can't remember the details.

10 But yeah, what I'm saying is the orders
11 that were on that report came from a system that was
12 created that I didn't create. Does that make sense?

13 Q. Uh-huh. Okay. Here's what's marked as
14 Exhibit 25.

15 [Exhibit Mallinckrodt-Rowley-Kilper-025
16 marked for identification.]

17 MR. DAVISON: Did you say 25? 25?

18 MS. GAFFNEY: 25.

19 MR. DAVISON: Thanks.

20 BY MS. GAFFNEY:

21 Q. For the record, the Bates number ends in
22 281241.

23 A. Okay.

24 Q. So this is an e-mail from you to Karen

1 Harper, January 5th, 2011. Could you please read your
2 e-mail into the record?

3 A. Karen, attached is an example of the
4 current document --

5 [Interruption by the reporter.]

6 A. Attached is an example of the current
7 documentation. I'm working on an SOP which explains
8 all the reports involved in this process. I would
9 recommend reconvening with the team you put together
10 for the direct side of the business.

11 This process has a lot to be improved
12 upon, is extremely time-consuming, and I'm not
13 convinced it is adding much value in its current state.
14 It might be worth considering reports from the Cognos
15 tool, which could look at trends by product and
16 customer.

17 Since orders are shipped out even if they
18 are included in the current report, you are really
19 looking at historical data either way. Call me when
20 it's convenient to discuss the attached. Tiffany.

21 Q. Thank you. You wrote I'm working on an
22 SOP. What does that refer to?

23 A. Standard operating procedures.

24 Q. Got it. Do you recall if you finished

1 putting together that SOP?

2 A. Don't remember.

3 Q. You wrote it might be worth considering
4 reports from the Cognos tool which could look at trends
5 by product and customer. Why did you think it might be
6 worth considering reports from the Cognos tool?

7 MR. DAVISON: Objection.

8 A. I don't really know -- I mean, the
9 questions were around indirect sales activity, so I was
10 suggesting using the Cognos tool because outbound sales
11 activity isn't going to include chargeback data.

12 BY MS. GAFFNEY:

13 Q. Okay. When you say the questions were
14 around indirect sales activity, what do you mean by
15 that?

16 A. I guess my -- again, my only interaction
17 with Karen Harper were those random requests for
18 chargeback data, so my involvement here was suggesting
19 that they might want to incorporate that when looking
20 at peculiar orders, which I knew very little about but
21 knew it was on the direct side of the business, on the
22 shipments out.

23 So -- and I was just kind of always
24 looking at process improvement. That was kind of one

1 of my things with different areas of the business, and
2 so I was suggesting that we possibly use the Cognos
3 tool as a way to better the system.

4 Q. And when you say the system, are you
5 referring to peculiar order report system?

6 A. Correct. Yeah.

7 Q. And how would using the Cognos tool better
8 the peculiar order report system?

9 MR. DAVISON: Objection.

10 A. I'm not sure how it would have, but I was
11 entertaining the idea that it might if you wanted to
12 look at indirect business.

13 BY MS. GAFFNEY:

14 Q. How would looking at indirect business
15 help the peculiar order monitoring?

16 MR. DAVISON: Objection.

17 A. Again, I don't know that it would. I just
18 was being asked for chargeback activity from Karen, and
19 then I was included in the peculiar order process, so
20 all I recall is that seemed like we might want to
21 incorporate the Cognos activity and that data into our
22 methodology for looking at things. Just trying to make
23 a more robust program.

24 BY MS. GAFFNEY:

1 Q. So at this point when you're sending this
2 e-mail -- and then you said attached is an example of
3 the current documentation. So this attachment -- the
4 current documentation -- is this -- is it fair to say
5 this is an example of a peculiar order report?

6 A. Uh-huh.

7 Q. And at this time, that peculiar order
8 report was only looking at the direct sales; is that
9 correct?

10 A. That was my understanding, yes.

11 Q. And it is your opinion that incorporating
12 the indirect side of things would make it a more robust
13 report?

14 A. It was just --

15 MR. DAVISON: Objection to form.

16 A. It was just a suggestion. I'm not saying
17 that it would have or would not have. Just it was a
18 suggestion that if we wanted to look at the indirect
19 side of the business, that using the Cognos tool would
20 help us to do that.

21 BY MS. GAFFNEY:

22 Q. Okay. You said a moment ago that all I
23 recall is it seemed like we might want to incorporate
24 the Cognos activity and that data into our methodology

1 for looking at things just trying to make a more robust
2 program.

3 So was it your opinion at that time that
4 incorporating the Cognos activity would make a more
5 robust program?

6 MR. DAVISON: Objection to form.

7 A. I suggested that possibly we use it,
8 without knowing if it would have helped make a more
9 robust tool or not. Does that make sense?

10 BY MS. GAFFNEY:

11 Q. (Nodding "yes.")

12 A. Yeah. So I don't remember beyond this
13 ever incorporating it, so I don't know that -- it was a
14 suggestion that obviously at the time I thought it
15 might be worth looking into.

16 Q. Okay. But you don't remember if anyone
17 ever followed up with you on that suggestion?

18 A. I don't.

19 Q. So you write here since orders are shipped
20 out even if they are included in the current report,
21 you are really looking at historical data either way.
22 Can you explain that to me, please?

23 MR. DAVISON: Objection.

24 A. They weren't holding the orders, so if it

1 showed up on the report, they were still shipping it
2 out. So my point was that both orders have occurred in
3 the past -- the chargeback and the shipment out to the
4 distributor both have occurred in the past, was what I
5 meant by that.

6 BY MS. GAFFNEY:

7 Q. Okay. So that looking at the current
8 documentation, peculiar orders, as well as the --
9 incorporating the Cognos tool, as you suggested here,
10 both would be looking at historical data?

11 MR. DAVISON: Objection to form.

12 A. Correct.

13 BY MS. GAFFNEY:

14 Q. So just looking -- and this is another
15 document that's very hard to read. Okay. Okay. Is
16 this your handwriting on this document?

17 A. Yes.

18 Q. Does looking at this document refresh your
19 recollection of what you were reviewing for when you
20 reviewed peculiar order reports?

21 A. No.

22 Q. But essentially you would receive a
23 document like this and be asked to approve it and you
24 would note that here? Like it says okay with your

1 initials and the date?

2 A. Correct.

3 MR. DAVISON: Objection to the form.

4 A. I know that I would have a task assigned
5 when I get the report before I approve it. I'm not
6 sure that was clear, but I just want to make that
7 clear. So it wasn't just like got the report and
8 approved it.

9 BY MS. GAFFNEY:

10 Q. Right.

11 A. Okay. I did have something to do, but I
12 just don't remember the details of what it was that I
13 did.

14 Q. Understood.

15 A. Okay.

16 Q. On the very last page of the document,
17 there's an e-mail. So this is an e-mail from you to
18 Penny Myers, subject ABC, on January 5th, 2011. Do you
19 recall Penny Myers's role at Mallinckrodt?

20 A. Not really, no. I know she was with our
21 addiction treatment business, but beyond that, no.

22 Q. So in this e-mail you're asking her about
23 an average of 97 bottles an order and -- compared to an
24 order for 288 bottles. Do you know any reason why they

1 would be placing higher-than-average orders?

2 MR. DAVISON: Objection to form.

3 MS. GAFFNEY: I was just reading the
4 e-mail. I'm sorry.

5 MR. DAVISON: Apologies. That makes
6 sense. Apologies. I got excited.

7 BY MS. GAFFNEY:

8 Q. So just reading the e-mail into the
9 record. And then there's your note below that -- spoke
10 to Penny regarding ABC methadone orders. All okay. Do
11 you see that?

12 A. Uh-huh.

13 Q. Do you recall -- knowing that it was many
14 years ago, can you think of what you might have asked
15 Penny Myers about in connection with an explanation for
16 a higher-than-average order like this example?

17 MR. DAVISON: Objection to form.

18 A. I have no recollection of what the
19 situation was that I spoke to her about.

20 BY MS. GAFFNEY:

21 Q. And it looks from this document that this
22 was a printout of an e-mail then with your handwritten
23 note. Is that your understanding from just looking at
24 this document?

1 A. Uh-huh.

2 Q. Do you recall whether it would have been
3 your practice to print out this e-mail, make the note,
4 and keep that as the record for your review for the
5 peculiar order report?

6 A. I -- yes, I vaguely recall that -- keeping
7 these reports, yes.

8 Q. And then this document here with the
9 e-mail and your note would have been the record of the
10 process that you went through to approve the order; is
11 that correct?

12 MR. DAVISON: Objection.

13 A. It looks like in this situation, but I
14 can't say that I remember the process, because it
15 doesn't seem consistent on all of these the same, so --
16 BY MS. GAFFNEY:

17 Q. And in this case, your notes simply says
18 that you spoke to her and all okay. Without providing
19 any more explanation for the increase -- the
20 higher-than-average order, would there have been a
21 place where you would have made a record of the reason
22 for the higher-than-average order?

23 MR. DAVISON: Objection.

24 A. No, it seems that the process was to just

1 make sure that it was okay and to note that.

2 BY MS. GAFFNEY:

3 Q. And making sure that it okay -- was okay
4 until contacting the person responsible for the account
5 with that distributor?

6 MR. DAVISON: Objection.

7 A. Yeah, I'm not sure who because I'm not
8 sure what Penny's responsibility was, so I'm not sure
9 exactly who I would contact on these orders. In this
10 case, it's clear it was Penny Myers, but --

11 BY MS. GAFFNEY:

12 Q. Uh-huh.

13 A. Yeah. Beyond that I'm not sure.

14 Q. So this is an example of a peculiar order
15 report as we discussed. Do you know what system was
16 used to generate this report?

17 A. I do not.

18 Q. If you wanted to find out how many of the
19 orders noted in a peculiar order report were ultimately
20 shipped by Mallinckrodt, how would you generate that
21 report?

22 MR. DAVISON: Objection.

23 A. Can you rephrase that?

24 BY MS. GAFFNEY:

1 Q. Uh-huh. So if you wanted to find out how
2 many of the orders in a peculiar order report were
3 ultimately shipped by Mallinckrodt, where would you go
4 to find that information?

5 MR. DAVISON: Same objection.

6 A. Once the product ships, it would be -- the
7 data would be available in Cognos.

8 BY MS. GAFFNEY:

9 Q. Okay. So using the information that's in
10 this report, you could then run queries in Cognos to
11 see the actual sales transactions related to the orders
12 in these reports; is that correct?

13 MR. DAVISON: Objection.

14 A. I can't say for sure because I've never
15 done that.

16 Q. We discussed earlier you running reports
17 from Cognos based on the name of a pharmacy and a DEA
18 registration number. Do you remember discussing that
19 earlier?

20 A. Was it --

21 MR. DAVISON: Objection.

22 A. -- in relation to indirect sales or
23 direct?

24 BY MS. GAFFNEY:

1 Q. My understanding is that would be indirect
2 sales because we were discussing specific pharmacies.

3 A. Okay, okay. Yeah, I remember that.

4 Q. So you can generate those reports in
5 Cognos based on the name of the indirect customer and
6 the DEA registration number; is that correct?

7 MR. DAVISON: Objection.

8 A. I can get the data that is submitted in it
9 from a chargeback, yeah.

10 BY MS. GAFFNEY:

11 Q. That would be sufficient to run a query in
12 Cognos; is that right?

13 MR. DAVISON: Same objection.

14 A. Yes, but this is direct transactions, so
15 they're not the same. I just want to make sure I'm not
16 unclear about these reports were auto outbound sales
17 too, so they can't be correlated to an indirect
18 transaction with a DEA registrant. Does that make
19 sense?

20 BY MS. GAFFNEY:

21 Q. With an order number would they be able to
22 be correlated to an indirect transaction?

23 A. No, because these are -- sales are going
24 to AmerisourceBergen, for instance, so beyond that I

1 would not know where they're going beyond that until
2 they sent me a chargeback. Does that make sense?

3 Q. Until AmerisourceBergen sent you the
4 chargeback request?

5 A. Correct. So all this is going to give me
6 is like outbound orders to them.

7 Q. Okay. Understood. Thank you. So after
8 the transaction had taken place, the direct customer or
9 the distributor will submit a request for a chargeback
10 payment; is that correct?

11 MR. DAVISON: Same objection.

12 A. After their sale.

13 BY MS. GAFFNEY:

14 Q. After their sale?

15 A. Correct.

16 Q. And if you wanted to create a list of all
17 of the pharmacies for which a distributor had requested
18 chargeback payments, how would you go about doing that?

19 MR. DAVISON: Objection.

20 A. The same as we talked about earlier --
21 just the Cognos tool -- and that's -- I could use their
22 DEA number, and it would pull any chargebacks that were
23 requested or paid from the distributor.

24 [Discussion off the record.]

1 BY MS. GAFFNEY:

2 Q. Exhibit 26 ends in Bates number 465411.

3 [Exhibit Mallinckrodt-Rowley-Kilper-026
4 marked for identification.]

5 A. Okay.

6 Q. Okay. So this document starts with an
7 e-mail dated September 3rd, 2010, from Dave Hoffman at
8 KeySource Medical to Victor Borelli, and he's asking
9 Mr. Borelli specific questions about a customer of
10 KeySource's increasing their use of Mallinckrodt
11 oxycodone 30 milligram at a rapid pace.

12 So the e-mail describes a February 2010
13 report of 39,959 tablets of Mallinckrodt oxy 30, and
14 then the same report for the month of July is 119,587
15 tablets. It appears that KeySource is asking Mr.
16 Borelli to check within Mallinckrodt's data to see if
17 Mallinckrodt's numbers are the same.

18 Is that an accurate characterization of
19 this e-mail?

20 MR. DAVISON: Objection to form.

21 A. That's what it seems like, yeah.

22 BY MS. GAFFNEY:

23 Q. A few weeks later Mr. Borelli e-mails you
24 asking you if you ever got back to him, and you say ran

1 some reports. We do show the oxy purchases shoot up in
2 June, July, and August for this facility. Our numbers
3 are very close to his. I would involve Karen Harper
4 and find out whether we have any responsibility with
5 this knowledge.

6 In your opinion, does Mallinckrodt have
7 responsibility with this knowledge?

8 MR. DAVISON: Objection to form.

9 A. It really wasn't my call as to who has
10 responsibility. I passed it on and had full confidence
11 that our compliance team would address it and decide
12 what they needed to do about it. That's why I made the
13 suggestion to involve Karen.

14 BY MS. GAFFNEY:

15 Q. And what was this confidence in the
16 compliance e-mail addressing it based on?

17 MR. DAVISON: Objection.

18 A. What was my confidence in the compliance
19 team based on?

20 BY MS. GAFFNEY:

21 Q. Uh-huh.

22 A. I just believed that Mallinckrodt during
23 my time there was very responsible and trying to do the
24 right thing, and that's why we were taking information

1 like this and giving it to Karen Harper, because that
2 was something that we took very seriously.

3 Q. So you said you believe that Mallinckrodt
4 during your time there was very responsible and trying
5 to do the right thing. What was that belief based on?

6 MR. DAVISON: Objection to form.

7 A. I wouldn't have worked for a company that
8 I thought was not being responsible with their product,
9 and there were, as you can see, a lot of communication
10 during my time there about these pharmacies and making
11 sure that we were -- even though the data's in the past
12 and this is chargeback data that's already -- the sale
13 has already occurred -- but to do whatever we could
14 going forward with the pharmacies that we were hearing
15 were shut down, or whatever the information was that
16 would come in on these e-mails, that the people that I
17 worked for and the people that they worked for --
18 everybody was trying to do the right thing and make
19 sure that these pharmacies weren't distributing more
20 product than what they should be.

21 And so that's what I mean. I just had a
22 very strong confidence in the leadership there and the
23 compliance team that was under Karen, and I wouldn't
24 have worked there if I had felt like they were doing

1 anything irresponsible.

2 BY MS. GAFFNEY:

3 Q. Can you think of any specific examples of
4 actions that you or others at Mallinckrodt took to
5 prevent the sort of volume of shipments of Mallinckrodt
6 products going to pharmacies as we've seen in some of
7 these documents today?

8 MR. DAVISON: Objection.

9 A. I remember vaguely chargebacks being
10 denied or discussion of the chargebacks being denied
11 for future, but I couldn't -- I wasn't the one that
12 would process the chargebacks, I wasn't one that would
13 change whatever they would change so that the
14 chargeback wouldn't pay, but I know that these
15 conversations led to chargebacks being denied for
16 entities that they believed were suspicious or whatever
17 the term.

18 So yeah, I mean, I think that shows that
19 they were serious about their responsibility in denying
20 chargebacks to the wholesaler.

21 BY MS. GAFFNEY:

22 Q. At the point of denying chargebacks to the
23 wholesaler, Mallinckrodt has already been paid for its
24 product which it has shipped to the wholesaler and

1 denying the chargeback is a financial benefit to
2 Mallinckrodt, is it not, because Mallinckrodt does not
3 have to then pay that amount to the wholesaler?

4 MR. DAVISON: Objection.

5 A. I mean, it's essentially -- I mean, I
6 wouldn't see it as a financial benefit. I mean, it's a
7 disruption in your customer relationship with your
8 wholesaler so ultimately it's not going to be a --
9 there is a risk -- for us to deny chargebacks is to
10 upset our distributors, and that's not something that's
11 like seen as something light.

12 So it wasn't -- I would say that the
13 chargeback denial is a way for us to say -- it's the
14 only way for us to say that -- that I know of, that we
15 aren't agreeing to where you sold our product and --
16 because again, it's not -- this product went to the
17 wholesaler, and we don't know those outbound sales --
18 you don't know where it's going from there until the
19 chargeback comes in.

20 So I think -- I just felt strongly that
21 Mallinckrodt was doing what they could do to say they
22 were not in agreement with whatever that entity is --
23 the customer's -- our customer's customer. I mean,
24 that's the way I saw it, and I felt like they were

1 always trying to better the process. In the time that
2 I was there, that was something that people took very
3 seriously.

4 BY MS. GAFFNEY:

5 Q. And do you know in any of these examples
6 where Mallinckrodt decided not to honor a chargeback
7 request to a certain indirect customer, whether that
8 indirect customer -- whether there were ever any
9 instances of that indirect customer continuing to
10 receive Mallinckrodt product through other
11 distributors?

12 A. I --

13 MR. DAVISON: Objection.

14 A. No idea.

15 BY MS. GAFFNEY:

16 Q. And given what you just explained about
17 the role of chargeback denial, would it concern you if
18 Mallinckrodt products still ended up going to those
19 pharmacies after Mallinckrodt had made the decision to
20 restrict the chargebacks?

21 MR. DAVISON: Objection to form.

22 A. Would it concern me personally, or like --
23 what is your question?

24 BY MS. GAFFNEY:

1 Q. Uh-huh. Would it concern you personally?

2 MR. DAVISON: Same objection.

3 A. I mean, it personally concerns me that
4 there's a problem and that our product ends up in the
5 hands of people that abuse it. Yes, it's personally
6 concerning, but I feel like Mallinckrodt did what it
7 could to ensure that it was shipping product in good
8 conscience, in good responsibility, and I don't feel
9 that they could have done more.

10 BY MS. GAFFNEY:

11 Q. You explained it's your opinion that the
12 chargeback denial is the only way that you know of for
13 Mallinckrodt to say we aren't agreeing to where you
14 sold our product. Is that right? I'm not trying to
15 put words in your mouth.

16 A. Yeah, I'm thinking --

17 Q. I'm looking back at the transcript and
18 trying to be fair about how you phrased that.

19 A. In my limited exposure to the business,
20 that is one way that we could say that we didn't --
21 we're not going to honor that chargeback, is to
22 communicate that we're not comfortable with -- based on
23 whatever knowledge that we've obtained from like these
24 types of things.

1 Q. And could Mallinckrodt also have decided
2 to stop shipping to a particular distributor?

3 MR. DAVISON: Objection.

4 A. Could we have stopped shipping to a
5 particular distributor?

6 BY MS. GAFFNEY:

7 Q. (Nodding "yes.")

8 A. Yes.

9 Q. To your knowledge, did Mallinckrodt ever
10 do that?

11 A. I don't know.

12 Q. Are you aware of whether Mallinckrodt has
13 a duty under the Controlled Substance Act to stop
14 suspicious orders before they're shipped?

15 MR. DAVISON: Objection.

16 THE WITNESS: I'm not aware of the details
17 of the Controlled Substance Act.

18 MS. GAFFNEY: Counsel, why don't we take a
19 short break?

20 MR. DAVISON: Okay.

21 THE VIDEOGRAPHER: We are going off the
22 record at 2:05 PM.

23 [A brief recess was taken.]

24 THE VIDEOGRAPHER: We are back on the

1 record at 2:20 PM.

2 MR. DAVISON: So we did reach out -- I
3 understand plaintiffs -- MDL plaintiffs have no more
4 questions?

5 MS. GAFFNEY: That's correct.

6 MR. DAVISON: And we did reach out to
7 Tennessee counsel, and we understand from that reach
8 out that she has no questions at this time, so we are
9 all finished.

10 THE VIDEOGRAPHER: We are going off the
11 record at 2:21 PM.

12

13 [SIGNATURE RESERVED.]

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C E R T I F I C A T E

I, JOHN ARNDT, a Certified Shorthand Reporter and Certified Court Reporter, do hereby certify that prior to the commencement of the examination, TIFFANY KILPER was sworn by me to testify the truth, the whole truth and nothing but the truth.

I DO FURTHER CERTIFY that the foregoing is a true and accurate transcript of the proceedings as taken stenographically by and before me at the time, place and on the date hereinbefore set forth.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in this action.



JOHN ARNDT, CSR, CCR, RDR, CRR

CSR No. 084-004605

CCR No. 1186

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I, TIFFANY KILPER, the witness
herein, having read the foregoing testimony of the
pages of this deposition, do hereby certify it to be a
true and correct transcript, subject to the
corrections, if any, shown on the attached page.

TIFFANY KILPER

Sworn and subscribed to before me,
This _____ day of _____, 201_.

Notary Public

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